

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF KINGS: CRIMINAL TERM: PART 2

3 THE PEOPLE OF THE STATE OF NEW YORK,

4 -against-

5 ATARA WISDOM,

6 Defendant.

Indictment No.:  
6615/2012  
(Trial)

7 Supreme Courthouse  
8 320 Jay Street  
9 Brooklyn, New York 11201  
July 1, 2014

10 B E F O R E:

11 THE HONORABLE ALBERT TOMEI, JUSTICE  
12 (And a Jury)

13 A P P E A R A N C E S:

14 HON. KENNETH P. THOMPSON, ESQ.  
15 District Attorney - Kings County  
16 350 Jay Street  
17 Brooklyn, New York 11201  
18 BY: PHYLLIS CHU, ESQ.  
19 Assistant District Attorney

20 DAVID WALENSKY, ESQ.  
21 Attorney for Defendant  
22 910 Stuart Avenue  
23 Mamaroneck, New York  
24 BY: DAVID WALENSKY, ESQ.  
25 - and -  
JOSHUA POVILL, ESQ.

MARLIN CASSIDY  
Senior Court Reporter

## Proceeding

1 (Whereupon, the following took place in open  
2 court:)

3 THE CLERK: This is calendar number two, case  
4 on trial, Indictment 6615 of 2012, People versus Atara  
5 Wisdom. Defendant is incarcerated, produced, present  
6 with his (sic) attorney.

7 Appearances are the same.

8 THE COURT: Yes?

9 MR. WALENSKY: Two things, your Honor.

10 First, we would object to the People offering  
11 up the testimony of the person from the Welfare  
12 services agency. There is no probative value to her  
13 testimony.

14 You had yesterday asked me to prepare a  
15 curative instruction, and essentially the woman's going  
16 to testify that the benefits card of Anthony Wilson was  
17 used in the area subsequent to his death.

18 THE COURT: And when was it used?

19 When was it used?

20 MS. CHU: Oh, I'm sorry.

21 It was used -- we have records from September  
22 1st, 2011 through May 12th -- I'm sorry -- May 31st,  
23 2012 and around the time of the 911 call, the last time  
24 there was any activity on the --

25 THE COURT: When was the 911 call, the 29th?

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1 MS. CHU: Yes, November 29th, 2011.

2 THE COURT: When was the first time that it  
3 was used outside of the area where he generally --

4 MS. CHU: The next entry or use of that card  
5 was on December 6th, 2011.

6 THE CLERK: I'm sorry, Ms. Chu, is he one of  
7 the witnesses?

8 MS. CHU: No, this is my paralegal.

9 THE COURT: December 6th, 2011.

10 And when --

11 MS. CHU: That's the first time it's used  
12 after November 29th, 2011.

13 THE COURT: Where is it used?

14 MS. CHU: It's used at 241C Rockaway Avenue.

15 THE COURT: Did he ever use it at 241C?

16 MS. CHU: No.

17 THE COURT: My question to you is -- what this  
18 is, really, is a Molineaux application -- for what  
19 purpose is this being introduced?

20 MS. CHU: It's not actually to establish  
21 that on November 29th, 2011 -- the date is very  
22 pertinent to this case because that's the time period  
23 where we are charging her for the murder. Sometime  
24 between 11/29/2011 and January 3rd he died, he was  
25 killed.

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1 THE COURT: This establishes a timeline.

2 MS. CHU: Establishes a timeframe and activity  
3 changed before 11/29 and after 11/29/2011.

4 MR. WALENSKY: Your Honor, you have the  
5 admission of Ms. Wisdom in a police statement written  
6 and recorded that she stabbed Mr. Wilson.

7 THE COURT: Does she say when?

8 MR. WALENSKY: At the end of November, right  
9 around Thanksgiving.

10 MS. CHU: In his opening he said that when she  
11 left he was still alive so that's implying that somehow  
12 somebody else came in and --

13 MR. WALENSKY: No, it doesn't imply anything.  
14 My theory is he didn't expire right at that time, he  
15 had expired that evening, but that when she left he  
16 wasn't dead. It's not like he got up and pranced  
17 around and ran around anywhere. He was dead that  
18 evening.

19 THE COURT: Well, you don't know.

20 MR. WALENSKY: But the thing is there was no  
21 inference that -- that he used the card afterwards  
22 because she testified directly that --

23 THE COURT: It's not a question of whether he  
24 used the card, it's a question of whether she used the  
25 card.

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1 MS. CHU: She denies using his card in her  
2 statement.

3 THE COURT: And he never used it with respect  
4 to that particular location.

5 MR. WALENSKY: There are two things. One, you  
6 need a PIN number to access the card. We don't know who  
7 he gave his PIN number to, how someone got the PIN  
8 number.

9 Secondly, --

10 MS. CHU: That goes to weight.

11 MR. WALENSKY: Secondly, she did testify  
12 that she left the wallet at a friend's house, it could  
13 have been the friend. It's really -- it has nothing to  
14 do with the timeline. She admitted she stabbed the  
15 person, they're calling Matthew Shepard, who she told  
16 that night she stabbed him. He didn't get wounds from  
17 some other person, that's not it. This is  
18 justification. She stabbed him and he died and it's the  
19 justification.

20 So, it's really -- the People's argument is  
21 weak, it really goes to the probative value outweighing  
22 the prejudice now. They did not charge her with any  
23 crimes.

24 THE COURT: They didn't have to.

25 MR. WALENSKY: And there was no Molineaux

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1 application. They also don't have proof that she's  
2 actually the person who used the card because this is a  
3 week later and there is an intervening factor.

4 THE COURT: There's circumstantial evidence as  
5 to whether she used it or not.

6 MS. CHU: The witness is not going to say she  
7 used it. It was used here from these dates, it was then  
8 used here after that date.

9 MR. WALENSKY: So what is the point?

10 MS. CHU: He is not implying -- she is  
11 saying the card was used on these dates at these  
12 locations and the card was used on these dates at these  
13 locations.

14 MR. WALENSKY: There is an inference that  
15 it's the defendant who used it. It doesn't add  
16 anything to this case because we're not doubting that  
17 it was her actions that caused his death. So,  
18 therefore, it's just, really, they're just bootstrapping  
19 it and they're just -- the word I am looking for, which  
20 I've lost, it's not -- just the prejudice. They are  
21 essentially just trying to lay something extra on this.  
22 It really isn't -- it has no evidentiary value,  
23 essentially, if the defense is that she stabbed him and  
24 he died.

25 MS. CHU: I would disagree.

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1 MR. WALENSKY: It occurred at the end of  
2 November. The fact that it was used December 6th really  
3 doesn't show anything except that it's inferring she  
4 used his card. That is the inference the People wish to  
5 draw. It's disingenuous. This was an inference, it was  
6 used after his death or whatever.

7 She said, I took his wallet, I took his keys.  
8 I took his wallet and his keys and his phone, and that's  
9 not anything we're contesting.

10 MS. CHU: The People don't plan on arguing  
11 that because there is no proof that she is the one who  
12 used his card after.

13 THE COURT: But I still question the probative  
14 value of this evidence.

15 MS. CHU: Because it establishes when, the  
16 actual time of death, when the actual incident took  
17 place.

18 THE COURT: She admits being there. She  
19 admits --

20 MS. CHU: She doesn't give any dates. All she  
21 says is sometime in November.

22 MR. WALENSKY: And this is --

23 THE COURT: Sometime in November so --

24 MS. CHU: Let me just check her -- just one  
25 second, to make sure that is an accurate statement.

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1 THE COURT: So she said sometime in November?

2 MR. WALENSKY: Actually, she says --

3 THE COURT: When you're ahead, --

4 MR. WALENSKY: Yes, exactly.

5 THE COURT: -- keep your head.

6 Go ahead.

7 MS. CHU: Well, I would also seek to introduce  
8 her EBT records through this same representative who can  
9 show that she is in different places, that she's here in  
10 Brooklyn, then after November 29th then she's popping up  
11 in Pennsylvania, in New Jersey. We're also seeking to  
12 elicit her card was being used in Pennsylvania, was  
13 being used in New Jersey.

14 THE COURT: Her own card?

15 MS. CHU: Her own card.

16 In addition --

17 THE COURT: To show what?

18 MS. CHU: To show that her card was being  
19 used, that she may have been in Pennsylvania. She  
20 actually states in her statement that she was, that she  
21 had gone someplace.

22 THE COURT: But for Molineaux purposes,  
23 what -- I mean, what -- what's the probative value?

24 MS. CHU: The probative value is it shows it  
25 wasn't as innocuous, painting the picture in the



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1 statements -- her statements are she is trying to do  
2 this, she is so afraid she has to defend herself, and  
3 in the meantime then she takes his keys, she takes his  
4 phone, his EBT card, then the EBT card is actually  
5 used, whether she gave it to someone else to use or  
6 whether she took it and used it herself. That's the  
7 argument.

8 THE COURT: But then --

9 MS. CHU: It goes towards the weight.

10 THE COURT: But, first of all, those are --  
11 taking the EBT card and taking his keys, that's --  
12 those are two uncharged crimes, right, so if I were to  
13 give -- allow this to come in under Molineaux, I would  
14 have to tell them it's being introduced to -- not to  
15 show propensity to commit the crime in question but for  
16 what?

17 MS. CHU: It completes the narrative of all  
18 that she did after she killed this person.

19 THE COURT: What about that?

20 MR. WALENSKY: Your Honor, it doesn't complete  
21 any narrative. The narrative is given and completed in  
22 her statement. She says it happens around Thanksgiving  
23 time, she took this stuff. She's not denying that she  
24 took it. She said she left it somewhere. It's  
25 irrelevant that it was used or who used it.

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1           The fact is, if she took his wallet, she took  
2           his wallet, it's out there for someone to use. This is  
3           really to show these are bad acts and she's done this,  
4           yeah, and -- and it really does, it invites speculation,  
5           which is --

6           THE COURT: Speculation of what? What  
7           speculation?

8           MR. WALENSKY: That she's been using this  
9           card. You know, that -- they are trying to show that  
10          she took it, she used it.

11          THE COURT: The purpose of the charge is to  
12          show or to tell the jury it's not, just the opposite of  
13          what you're saying. In other words, that it's not being  
14          offered for, to show propensity to commit the crime in  
15          question but to complete the narrative.

16          MR. WALENSKY: But --

17          THE COURT: In other words, there would be a  
18          lacuna here. If I were to tell the jury to disregard  
19          any statements already made or any evidence that's been  
20          introduced regarding the taking of those items or  
21          even -- I don't know if there was any evidence regarding  
22          the EBT, but there's a gap. If you are talking about  
23          speculation, then there is a gap there.

24          MR. WALENSKY: It's a fait accompli by her  
25          other statements. I mean, she's stated this happened

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1 around Thanksgiving. She took the stuff. Why are we  
2 even discussing the card or its used?

3 It becomes irrelevant. It doesn't add  
4 anything to any timeline. This occurred at this  
5 particular point in time, around November sometime I  
6 stabbed him, I took his wallet, whatever happens with  
7 the stuff in the wallet afterward is irrelevant.

8 THE COURT: My point is --

9 MS. CHU: Well, --

10 MR. WALENSKY: On the one hand --

11 THE COURT: With all due respect, my point is  
12 that if you don't want me to give -- if you believe I  
13 shouldn't give a Molineux charge, I don't see how that  
14 helps your case because you are talking about  
15 speculation. It's almost like a curative instruction.  
16 It's like saying, you know, you are not to consider  
17 propensity to commit any crime, I mean the crime in  
18 question, and it's being offered solely for this  
19 purpose, to complete the narrative.

20 MR. WALENSKY: Well, because I don't think you  
21 need to get a witness on the stand to talk about these  
22 charges and whatever. That to me is more prejudicial to  
23 my client. I rather be able to argue that --

24 THE COURT: She's a witness.

25 MS. CHU: If anything, it corroborates what

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1 she says in the statement.

2 THE COURT: All right, I'm going to -- I'll  
3 give a Molineux charge. I believe the probative  
4 value outweighs any prejudice to the defendant's  
5 probative value. It's being offered to complete the  
6 narrative.

7 MR. WALENSKY: Again, and co-counsel pointed  
8 this out when we first talked about Seroquel, people  
9 were given this drug for all sorts of reasons and  
10 essentially the notes from the treating physician says  
11 that Mr. Wilson noted hallucinations, to harm himself or  
12 others.

13 He's diagnosed with major depressive disorder  
14 with psychotic features and pursuant to that he is given  
15 Prozac for his depression and Benadryl, which is for  
16 allergy, to help him sleep, and Seroquel, which is an  
17 antipsychotic, and then a month later -- he isn't there  
18 for a month, he has stomach surgery. Also in these  
19 records, he's -- when he's dead he has .2 alcohol in his  
20 system.

21 In these records it shows he tells the  
22 interviewer he has half his stomach removed because of  
23 alcoholic ulcers and that he tells the person he's  
24 giving up alcohol, doesn't do alcohol or cocaine anymore  
25 but he has residue of, essentially, of cocaine in his

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1 system, a byproduct that he's metabolized, plus he has a  
2 drug used for cutting, which is a horse dewormer, which  
3 is very popular in terms of cutting cocaine right now, I  
4 have it here but --

5 MS. CHU: Levamisole.

6 MR. WALENSKY: He has it here, Levamisole,  
7 which is detected and that's metabolized more slowly  
8 than cocaine, but it belies what he's telling the  
9 treatment person. Essentially he is saying, I'm  
10 hearing -- I have hallucinations, I want to hurt myself  
11 and other people, which goes --

12 MS. CHU: Or others, not "and others."

13 MR. WALENSKY: Myself or others. Regardless,  
14 it makes no difference. It's showing --

15 THE COURT: What is the point?

16 MR. WALENSKY: The point I want to make, I  
17 want to use -- I am going to be subpoenaing the  
18 physician who he spoke with. Because he's dead, there  
19 is no protection and I also wish to --

20 THE COURT: In subpoenaing -- what is the  
21 doctor? Is it the doctor?

22 MR. WALENSKY: Yes.

23 THE COURT: What would that doctor say?

24 MR. WALENSKY: I want to put a certified copy  
25 of these records into evidence which will show what he

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1 said to the doctor. That's step one. I think I ought  
2 to be allowed to.

3 They find Seroquel on the scene, they don't  
4 find Seroquel in his system. So if I don't have that  
5 physician, I want to put on my expert, Dr. Siegel, he  
6 will -- who can talk about psychosis. I can ask him  
7 what drugs are given for psychosis and he would  
8 undoubtedly say he gives some of them and Seroquel.

9 THE COURT: I think I already litigated this  
10 with you and I said what you're trying to establish  
11 through this expert testimony is, number one, an  
12 inference and then an inference upon an inference. And  
13 that's what it seems to me to be.

14 MR. WALENSKY: I will tell you why it's not an  
15 inference, because he was directly -- he had a treating  
16 physician, he was being treated for hallucinations  
17 and --

18 THE COURT: No, no. I read the record, he  
19 wasn't being treated for hallucinations, he was being  
20 treated because he was depressive. That was the  
21 analysis.

22 MR. WALENSKY: But the diagnosis --

23 THE COURT: According to the DMS (sic),  
24 whatever --

25 MS. CHU: DSM.

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1 THE COURT: The DSM, he is not psychotic.  
2 They don't have him down as psychotic, they don't  
3 have him -- or anti -- some kind of anti-personality  
4 trait. They got him as depressive. That is what they  
5 have.

6 MR. WALENSKY: She's treating him. She's  
7 treating him, that is why I need to speak with -- she is  
8 treating for -- one of the drugs is for hallucinations  
9 and you know it's part of -- they might say he's  
10 depressive but if he has hallucinations...

11 THE COURT: Your premise is going to be, in  
12 light of the fact that he is being treated for this, we  
13 know he has this mental problem, right, he may want to  
14 harm himself or others, all right, and consequently  
15 because he didn't take Seroquel that's why he attacked  
16 Ms. Wilson (sic).

17 MR. WALENSKY: No, what I'm saying, he also  
18 has a follow-up for a month later --

19 THE COURT: He didn't --

20 MR. WALENSKY: -- where it states that he was  
21 hearing the voices less. He's still hearing voices and  
22 I think I can question. There's a reason for the  
23 Seroquel, why were you prescribed Seroquel, was it to  
24 sleep, he said no, I am prescribing the Seroquel because  
25 he is hallucinating, it's an antipsychotic. Now --

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1 MS. CHU: Who's going to say that?

2 MR. WALENSKY: -- whether or not it caused  
3 him -- whether or not it caused him to attack Ms.  
4 Wisdom, that could be speculation.

5 The problem is he is supposed to be taking  
6 this to control these hallucinations. If you don't take  
7 it, what can happen.

8 THE COURT: Again, you're speculating because  
9 he didn't take it that's what happened.

10 MR. WALENSKY: No. Perhaps, I understand --

11 THE COURT: If you say "perhaps," it's  
12 speculation.

13 MR. WALENSKY: But the thing is --

14 THE COURT: It isn't.

15 MR. WALENSKY: There is a reason for the  
16 Seroquel. Here you say it's depressive, it helps him  
17 sleep. That is speculation also. I want to ask  
18 directly.

19 THE COURT: It's not speculation. If that's  
20 one of the benefits of taking it, that's what it is.

21 MR. WALENSKY: You're hearing voices and one  
22 of the benefits, you won't have hallucinations, and he's  
23 hearing voices and we can ask --

24 THE COURT: There is no evidence here that he  
25 was hearing voices, none whatsoever. There is no



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1 evidence based upon what your client said to the police  
2 that he was hallucinating. All he was interested in,  
3 like she said, all right, I want a little pussy. That  
4 is what he said. That doesn't seem to me to be  
5 hallucinations.

6 MR. WALENSKY: She did say it was out of  
7 character. When you see the video -- I'd like you to  
8 reserve till you see the video because on the video she  
9 is saying I never had a problem before, just as Ms. Chu  
10 said in her opening, I want some pussy, okay. She said,  
11 I will leave, thinking he's going to see someone. No, I  
12 am going to get some and he became more violent than  
13 ever before, he became --

14 THE COURT: But you know what, the report  
15 doesn't say that he's violent, all right, or he  
16 committed any violent acts and the report doesn't say  
17 the hallucinations were violent in nature, all right.

18 You're really, in my opinion, going beyond the  
19 pale, so to speak.

20 MR. WALENSKY: The record does say, notes,  
21 hallucinations, harm to self or others. I don't know  
22 how much more you could say in terms of violence. It  
23 comes down to, okay, he may not want to kill people, he  
24 wants to harm himself or others. What did he say he  
25 wanted to --

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1 THE COURT: Does he have any record or any  
2 evidence of violence in his past?

3 MS. CHU: No.

4 MR. WALENSKY: We are going to ask for DIR  
5 records because it was in Family Court where he's  
6 accused of --

7 THE COURT: What is DIR?

8 MS. CHU: Domestic Incident Report.

9 MR. WALENSKY: Yes, Domestic Incident  
10 Report.

11 MS. CHU: He had problems with his baby's  
12 mother.

13 THE COURT: He was going to Family Court, he  
14 was seeking custody of the child.

15 MS. CHU: That is actually in the records.

16 THE COURT: That's in the record?

17 MR. WALENSKY: He is also lying in terms of I  
18 don't drink anymore and I don't do drugs anymore and  
19 right here --

20 THE COURT: What you are trying to do is dirty  
21 the defendant. That's what you're trying to do.

22 MR. WALENSKY: The defendant is dirty.

23 MS. CHU: Dirty the victim.

24 THE COURT: I mean the victim.

25 MR. WALENSKY: The victim, I mean.

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1 THE COURT: I'm sorry.

2 MR. WALENSKY: And it's -- and I don't think  
3 he comes through as a regular -- I think the whole point  
4 is he should have been taking the Seroquel and he  
5 wasn't.

6 THE COURT: There is no evidence of the fact  
7 that he didn't take the Seroquel caused him allegedly,  
8 according to your client, to attack, simply none at all.  
9 You are trying to establish an inference from the fact  
10 that he didn't take this particular medication, in light  
11 of not taking the medication that caused him to become  
12 violent and that caused him to attempt or -- to attempt  
13 to rape your client.

14 MR. WALENSKY: And the reason that he was  
15 prescribed the Seroquel was specifically because of  
16 that, the hallucinations.

17 THE COURT: No, it wasn't specifically because  
18 of that.

19 MR. WALENSKY: Let me bring in --

20 THE COURT: Seroquel is a drug that is used  
21 for a lot of different reasons, not just because he is  
22 having hallucinations.

23 MR. WALENSKY: Let me bring in the doctor for  
24 an in camera inspection by the Court because here we are  
25 both speculating, it seems to me.

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1 THE COURT: No, I am not speculating at all.  
2 I am telling you what you have and you have told me what  
3 you have. I am basing it on, simply, what you have.  
4 You have no evidence at all that the failure to take the  
5 Seroquel caused him to harm or want to harm Ms. Wilson  
6 (sic).

7 MS. CHU: Wisdom.

8 THE COURT: In fact, if anything, it's the  
9 alcohol in his system that in all probability caused him  
10 to do what she alleged -- alleges that he did.

11 MR. WALENSKY: I'd like to know --

12 THE COURT: If in fact he did.

13 MR. WALENSKY: -- does the alcohol abuse  
14 exacerbate the hallucinations.

15 MS. CHU: That is speculation.

16 THE COURT: All right, that is my ruling.

17 MR. WALENSKY: Note my exception.

18 THE COURT: You got it.

19 Let's go.

20 MS. CHU: I just have one question. Does that  
21 work to play a CD?

22 THE CLERK: It should.

23 MS. CHU: This does?

24 THE CLERK: Audio? Not this main thing. You  
25 have to set up the computer.

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1 MS. SCHWARTZKOPF: Yes.

2 MS. CHU: Okay, I'll do that.

3 THE COURT: I want to note for the record, Mr.  
4 Walensky, in my opinion, if you believe so strongly in  
5 your argument, you should have supported that with some  
6 kind of memorandum of law, some kind of medical support,  
7 et cetera. And I am not holding a hearing to determine  
8 or make a determination whether I should let this in or  
9 not, all right. I think you should have done that to  
10 aid the Court. But based upon your argument, that's my  
11 decision.

12 MR. WALENSKY: I sought advice from my expert,  
13 Dr. Siegel, and I will look further into it by next --  
14 by Tuesday.

15 THE COURT: All right.

16 MS. CHU: So I should turn this on, Phil?

17 THE CLERK: Yes.

18 MS. CHU: Thank you.

19 THE COURT: Ms. Wilson is the first witness,  
20 right?

21 MS. CHU: Yes, Victoria Wilson.

22 THE COURT: She's --

23 MS. CHU: She's the sister.

24 THE COURT: She identified the body?

25 MS. CHU: Yes, she identified the body. And

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1 she also listened to the 911 call so she can identify  
2 that's her brother's voice.

3 THE COURT: All right.

4 MS. CHU: Your Honor, I also had the 911 call  
5 that I am about to play transcribed. I gave it over to  
6 defense counsel. I took the liberty of making several  
7 copies of it so that it could be distributed, if needed,  
8 to the jurors.

9 THE COURT: Have they seen it?

10 MS. CHU: He has a copy of it, yes.

11 THE COURT: Do you have an objection to it?

12 It's going to be offered as an aid.

13 MR. WALENSKY: I'm sorry, which was this?

14 MS. CHU: The 911 call transcript.

15 MR. WALENSKY: I have no objection.

16 MS. CHU: Should I play it just to see if we  
17 can hear it?

18 THE CLERK: Yes.

19 THE COURT: What is -- this is the statement?

20 MS. CHU: The 911 call.

21 THE COURT: Hold the jury. Hold it.

22 (Whereupon, there was a brief pause in the  
23 proceedings.)

24 (Whereupon, the exhibit was played in open  
25 court.)

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1 MS. CHU: That actually used your speakers.  
2 And that's it.

3 Do you want me to take this out and see if it  
4 plays louder?

5 MS. SCHWARTZKOPF: I am saying, people usually  
6 put the microphone next to it because it makes it  
7 louder.

8 (Whereupon, the exhibit was played in open  
9 court.)

10 THE COURT: That's better.

11 MS. CHU: Okay, it's better.

12 THE COURT: What is that dated?

13 MS. CHU: This is November 29th, 2011.

14 THE COURT: Before we bring in the jury, when  
15 the jury comes in, I'm going to give them an instruction  
16 on Molineux indicating that it's -- this evidence that's  
17 already in about her taking the benefit card and the --  
18 what else? The keys and wallet -- was offered -- was  
19 not offered to show a propensity to commit the crime in  
20 question but solely to complete the narrative. That's  
21 it.

22 COURT OFFICER: Jury entering.

23 (Whereupon, the Jury entered the courtroom.)

24 THE CLERK: All the jurors are present and  
25 properly seated.

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1 Do both sides waive the roll call?

2 MS. CHU: So waived.

3 MR. WALENSKY: Yes.

4 THE COURT: Ladies and gentlemen, before we  
5 begin, first of all, I apologize for the delay but  
6 there are times when the Court has to deal with other  
7 business unrelated to the trial itself so that will  
8 cause a delay. So I apologize for your -- for the  
9 delay.

10 And, also, at this time I want to instruct you  
11 that there's evidence that after the defendant allegedly  
12 stabbed the victim in this case she took some items off  
13 the bureau, a wallet of the defendant, keys and benefit  
14 card. That evidence -- those are uncharged crimes and  
15 they are not offered to show a propensity on the part of  
16 the defendant to commit the crime in question. They are  
17 only being -- that evidence is only offered to complete  
18 the narrative, complete the narrative, that's all.  
19 Okay.

20 All right, you can proceed.

21 MS. CHU: People call Victoria Wilson.

22 (Whereupon, there was a brief pause in the  
23 proceedings.)

24 COURT OFFICER: Ready for the witness?

25 THE COURT: Yes.



V. Wilson - People - Direct/Ms. Chu

1 COURT OFFICER: Witness entering.

2 (Whereupon, Victoria Wilson entered the  
3 courtroom and took the witness stand.)

4 THE CLERK: Raise your right hand, please.

5 Do you solemnly swear or affirm that the  
6 testimony that you're about to give will be the truth,  
7 the whole truth and nothing but the truth, so help you  
8 God?

9 THE WITNESS: Yes.

10 THE CLERK: Please state your name.

11 THE WITNESS: Victoria Wilson.

12 THE CLERK: Spell your first and last name.

13 THE WITNESS: V-I-C-T-O-R-I-A, W-I-L-S-O-N.

14 THE CLERK: Thank you.

15 You can have a seat.

16 THE COURT: Just pull your chair up, Ms.  
17 Wilson, to the microphone.

18 And when you're responding to a question, just  
19 put your lips close to the microphone and answer it.

20 Proceed.

21 MS. CHU: Thank you.

22 V I C T O R I A W I L S O N, called as a witness by and  
23 on behalf of the People of the State of New York,  
24 after having been first duly sworn, was examined  
25 and testified as follows:

V. Wilson - People - Direct/Ms. Chu

1 DIRECT EXAMINATION

2 BY MS. CHU:

3 Q Good morning.

4 A Good morning.

5 Q How old are you?

6 A Forty-four.

7 Q And can you tell me what you do for a living?

8 A I work for ACS.

9 Q How long have you been working there?

10 A Eighteen years.

11 Q Did you know someone by the name of Anthony

12 Wilson?

13 A Yes, that was my brother.

14 Q Can you tell me, was he older or younger than you?

15 A Older.

16 Q How many siblings were you all in the family?

17 A Five.

18 Q Now, do you remember where he was living back in

19 November of 2011?

20 A 832 Bushwick Avenue.

21 Q And had you ever been to his apartment before?

22 A Yes.

23 Q And can you tell me, did you know how he paid his

24 rent?

25 A He had Section 8 and public assistance.

V. Wilson - People - Direct/Ms. Chu

1 Q And you said -- I'm sorry.

2 You said you had been to his apartment?

3 A Yes.

4 Q On what occasions would you go to his apartment?

5 A I went there for like when -- the birth of his  
6 daughter and that is when I frequently started visiting his  
7 apartment.

8 Q About how many times have you ever been there?

9 A About four times.

10 Q How did he normally keep his apartment?

11 A It was nice, it was neat.

12 Q Now, did he have any --

13 You said he had a daughter?

14 A Yes.

15 Q That's when you started visiting him at that  
16 apartment?

17 A Yes.

18 Q Now, how often would you see your brother?

19 A Like maybe monthly.

20 Q What about around the holidays?

21 A Every holiday. We always got together on  
22 holidays.

23 Q Where would you get together?

24 A Thanksgiving my mom's house, Christmas is my  
25 house.

V. Wilson - People - Direct/Ms. Chu

1 Q And I want to direct your attention to January 3rd  
2 of 2012.

3 Did there come a time when you received any  
4 information with regard to your brother?

5 A Yes.

6 Q And who was it that contacted you?

7 A My mom contacted me first because the detectives  
8 called her and said he had to speak with her in regards to my  
9 brother.

10 Q Based upon what she said to you, where did you go?

11 A I went to her house.

12 Q During the time that you were at her house did  
13 there come a time the detectives actually arrived there?

14 A Yes.

15 Q Now, based upon the conversations that were had  
16 with the police, did you then go to the Office of the Chief  
17 Medical Examiner on January 5th, 2012?

18 A Yes.

19 Q Can you tell me, why did you go there?

20 A To identify my brother's body.

21 Q And did you do that?

22 A Yes.

23 Q Now, when was the last time that you saw Mr. Wilson  
24 alive?

25 A On Thanksgiving.

V. Wilson - People - Direct/Ms. Chu

1 Q Thanksgiving at your mom's house?

2 A Yes.

3 Q And can you tell me, did you try and get  
4 together --

5 You said that Christmas was normally at your house?

6 A Yes.

7 Q Did you try and reach out to him at all for  
8 Christmas?

9 A Yes.

10 Q Why was it that you tried to reach out to him?

11 A Because it wasn't like him not to call on Christmas  
12 morning. So like around the afternoon me and my sister rode  
13 to his house to see was he there, but there was no answer.

14 Q Now, did you know whether he had a phone,  
15 cellphone?

16 A Um, I believe he had like the phone from public  
17 assistance, that Assurance phone, I believe.

18 Q Okay.

19 Did you ever have his number?

20 A No, I didn't have that number.

21 Q So you never tried to contact him via the  
22 telephone, you just went to his house?

23 A Correct.

24 Q When you went to his apartment at 832 Bushwick  
25 Avenue, can you tell me, did you try and see if the door was

V. Wilson - People - Direct/Ms. Chu

1 open or unlocked?

2 A I just knocked on the door.

3 Q And there was no answer?

4 A No answer.

5 Q Now, I let you listen to a tape before. Have you  
6 ever spoken to your brother on the telephone?

7 A Yes.

8 Q Would you recognize his voice if you heard it?

9 A Yes.

10 MS. CHU: Your Honor, if I can have this  
11 deemed marked People's Number 42 for identification.

12 THE COURT: You object?

13 MR. WALENSKY: Yes, I am. Objection, exactly.

14 THE COURT: Overruled.

15 (Whereupon, the 911 call was deemed marked as  
16 People's Exhibit 42 for identification.)

17 THE COURT: I am going to allow it subject to  
18 connection.

19 MS. CHU: Yes, subject to connection.

20 (Whereupon, the exhibit was handed to the  
21 witness.)

22 Q Ms. Wilson, is that the DVD that I had played for  
23 you earlier?

24 A Yes.

25 MS. CHU: At this time, your Honor, I would

V. Wilson - People - Direct/Ms. Chu

1 like to offer it into evidence as People's 42 subject to  
2 connection.

3 THE COURT: Objection is noted, it's  
4 overruled. All right.

5 MR. WALENSKY: Thank you.

6 (Whereupon, the 911 call was marked as  
7 People's Exhibit 42 in evidence subject to connection.)

8 MS. CHU: At this time, your Honor, I'd like  
9 to play it for the witness.

10 (Whereupon, the exhibit was played in open  
11 court.)

12 Q Ms. Wilson, did you recognize the voice that was on  
13 that 911?

14 A Yes.

15 Q I'm sorry?

16 A Yes.

17 Q Do you recognize that voice?

18 A Yes.

19 Q Whose voice is that?

20 A My brother, Anthony Wilson.

21 Q Thank you.

22 MS. CHU: At this time, if I can have exhibits  
23 2 through 41, please.

24 (Whereupon, the exhibits were handed to  
25 counsel.)

V. Wilson - People - Direct/Ms. Chu

1 THE COURT: Come on up. Ms. Chu, come on up.  
2 Come around.

3 (Whereupon, a sidebar conference was held off  
4 the record.)

5 (Whereupon, the exhibit was displayed.)

6 Q Showing you People's Number 3 in evidence, Ms.  
7 Wilson, you said that you had been to your brother's  
8 apartment before?

9 A Yes.

10 Q Do you recognize this photograph?

11 A Yes, that's the front door.

12 Q That is the front door to his apartment?

13 A Yes.

14 Q Okay.

15 Taking a look at People's Number 5 in evidence.

16 (Whereupon, the exhibit was displayed.)

17 Q Do you recognize that photograph?

18 A Yes, that's inside the apartment.

19 Q Okay.

20 Now, can you tell me, is this how you would see his  
21 apartment when you came to visit?

22 A Never.

23 Q Now, I notice in this picture there are some jars  
24 here on the right-hand side (indicating).

25 A Yeah, uh-huh.



V. Wilson - People - Direct/Cross

1 Q What is that?

2 A Baby food.

3 Q You said that he had a baby. That is when you went  
4 to visit him at this apartment?

5 A Yes.

6 Q Taking a look at People's Number 6 in evidence.

7 (Whereupon, the exhibit was displayed.)

8 Q Did you ever see his apartment like that?

9 A No.

10 Q Thank you very much.

11 MS. CHU: You can turn the lights on.

12 Thank you very much. I have nothing further.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MR. WALENSKY:

16 Q Sorry, for your loss, ma'am.

17 Your brother was trying to get control of his  
18 eleven-month old daughter?

19 A Yes.

20 Q And he'd been accused of being physically abusive  
21 to the daughter's mother?

22 MS. CHU: Objection.

23 THE COURT: Objection sustained.

24 Jurors, disregard.

25 Q Were you aware of any illnesses your brother might

V. Wilson - People - Cross/Mr. Walensky

1 have had?

2 A What illnesses?

3 Q Well, were you --

4 Did you ever visit your brother in a hospital when  
5 he had stomach surgery?

6 A No.

7 Q Were you aware he had stomach surgery?

8 A No, I did not.

9 Q Were you aware he had a long-standing problem  
10 with --

11 MS. CHU: Objection.

12 THE COURT: Objection is sustained. Jury is  
13 to disregard it.

14 Q Did your brother abuse alcohol?

15 MS. CHU: Objection.

16 THE COURT: Sustained.

17 MR. WALENSKY: No further questions.

18 THE COURT: You may step down. Thank you.

19 (Whereupon, Victoria Wilson stepped down from  
20 the witness stand and exited the courtroom.)

21 THE COURT: Call your next witness.

22 MS. CHU: People call Mr. Donet Robinson.

23 (Whereupon, there was a brief pause in the  
24 proceedings.)

25 SERGEANT: Ready for the witness?

Robinson - People - Direct/Ms. Chu

1 THE COURT: Yes.

2 (Whereupon, Donet Robinson entered the  
3 courtroom and took the witness stand.)

4 THE CLERK: Please raise your right hand.

5 Do you solemnly swear or affirm the testimony  
6 that you're about to give will be the truth, the whole  
7 truth and nothing but the truth, so help you God?

8 THE WITNESS: Yes.

9 THE CLERK: Put your hand down.

10 Please state your name.

11 THE WITNESS: Donet Robinson.

12 THE CLERK: Spell your first name.

13 THE WITNESS: D-O-N-E-T.

14 THE CLERK: Thank you.

15 THE COURT: Mr. Robinson, just pull your chair  
16 up and in answering the questions just put your lips  
17 towards the microphone, okay.

18 Go ahead. Proceed.

19 MS. CHU: Thank you.

20 D O N E T R O B I N S O N, called as a witness by and  
21 on behalf of the People of the State of New York,  
22 after having been first duly sworn, was examined  
23 and testified as follows:

24 DIRECT EXAMINATION

25 BY MS. CHU:

Robinson - People - Direct/Ms. Chu

1 Q Good afternoon, Mr. Robinson.

2 A Good afternoon.

3 THE COURT: You gotta say it.

4 A Yes, good afternoon.

5 Q Okay.

6 Can you tell me, how old are you, sir?

7 A Seventy-one.

8 Q And what do you do for a living?

9 A I'm retired right now. I'm not doing anything.

10 Q Are you familiar with a location of 832 Bushwick  
11 Avenue?

12 A Yes.

13 Q And how long --

14 How do you know that location?

15 A I live there.

16 Q Do you have any role that you play for the building  
17 itself?

18 A Take care of it.

19 Q So you're like a landlord?

20 A Uh-huh.

21 Q Yes?

22 A Yes.

23 Q Do you own it?

24 A My wife own it.

25 Q Now, can you tell me, you said you lived in that

Robinson - People - Direct/Ms. Chu

1 building?

2 A Yes.

3 Q Did you know someone by the name of Anthony Wilson?

4 A Yes.

5 Q How did you know him?

6 A He was a tenant.

7 Q Now, 832 Bushwick Avenue, is there a cross street  
8 that's near where that building is?

9 A Kosciuszko and Bushwick.

10 Q That's the corner?

11 A Yes.

12 Q Now, can you tell me, where did Anthony Wilson live  
13 in 832 Bushwick Avenue?

14 A On Kosciuszko.

15 Q He entered on the Kosciuszko side?

16 A Yes.

17 Q Where were you living in 832 Bushwick Avenue?

18 A On the Bushwick Avenue side.

19 Q So you were around the corner?

20 A Yes.

21 Q Now, could you hear if anything was going on in his  
22 apartment from where you were in your apartment?

23 A No.

24 Q Now, how long had Mr. Wilson lived in that  
25 building?

Robinson - People - Direct/Ms. Chu

1 A About a year, year-and-a-half.

2 Q And can you tell me, what arrangements did he have  
3 as far as the rent was concerned?

4 A He had Section 8 and also Welfare.

5 Q So how did the rent get paid?

6 A Section 8 paid one part and Welfare paid the other  
7 part.

8 Q So did Mr. Wilson have to give you what he got from  
9 Section 8 and Welfare or did it get mailed directly to you?

10 A No, it comes from -- Section 8 send it to us and  
11 the Welfare also send it to us.

12 Q Once you received those things from Section 8 as  
13 well as Welfare, is there anything that you have to get him  
14 to sign with regard to his rent?

15 A The Welfare rent.

16 Q Now, did he have any roommates?

17 A He had a friend.

18 Q Okay.

19 Was that the woman that he had a baby with?

20 A Yes.

21 Q Okay.

22 Did there come a time when she moved out of that  
23 apartment?

24 A Yes, I believe so.

25 Q Do you remember when it was that she moved out?

Robinson - People - Direct/Ms. Chu

1 A Not exactly.

2 Q Now, on January 3rd, 2012, did there come a time  
3 when you actually entered into Anthony Wilson's apartment?

4 A That's when I went to check for the mail.

5 Q Check for...

6 A Mail.

7 Q For mail?

8 A Yes.

9 Q Meaning mail you get in the post office?

10 A Yes.

11 Q Now, had you ever visited his apartment to deliver  
12 the mail to him?

13 A No.

14 Q Where did the mail get dropped off for that  
15 location?

16 A 832 Bushwick Avenue.

17 Q That is on the Bushwick side?

18 A Yes.

19 Q In order for Mr. Wilson to get his mail he had to  
20 exit his apartment and go to your entrance?

21 A Yes.

22 Q Can you tell me, did you ever take any of the mail  
23 that belonged to Mr. Wilson and go and try to deliver it  
24 under his door?

25 A Yes.

Robinson - People - Direct/Ms. Chu

1 Q And can you tell me, on January 3rd, 2012, did you  
2 do that as well?

3 A January 3rd? I believe that was the day that I  
4 came into the apartment.

5 Q Yes.

6 Why did you go in the apartment?

7 A Because he wasn't picking up the mail. It was like  
8 on the floor, you know, next to the gate of the door.

9 Q The gate of the door?

10 A Uh-huh. There's a gate.

11 Q Had you ever delivered mail there before and it  
12 hadn't been picked up?

13 A It hadn't been picked up.

14 Q When you went January 3rd, it was still there?

15 A Yes.

16 Q You had a key to his apartment?

17 A Yes.

18 Q Had you ever been inside his apartment to do  
19 regular maintenance or repairs?

20 A Maintenance, yes.

21 Q Can you tell me, how did Mr. Wilson keep his  
22 apartment?

23 A He -- it was a neat apartment.

24 Q Now, when you entered into Mr. Wilson's apartment  
25 on January 3rd, 2012, did you ever have to use your key?



Robinson - People - Direct/Ms. Chu

1 A Yes.

2 Q So was the door locked?

3 A Yes.

4 Q Was there any sign that there had been any forced  
5 entry into the door at all?

6 A No.

7 Q What did you do or -- sorry.

8 What happened after you entered his apartment?

9 A Well, when I opened up the door, when I looked into  
10 the place, it looked like it was some red stuff on the floor.  
11 I don't know exactly what it was, but it was orange looking.  
12 And it was like stuff on the -- on the -- what you call it,  
13 the countertop, you know, like red stuff was just like messed  
14 up.

15 Q Can you tell me, was that normally how Mr. Wilson  
16 kept his apartment?

17 A No, not -- I haven't been there that many times but  
18 he kept the apartment pretty neat.

19 Q It wasn't like you saw it on January 3rd?

20 A No, no.

21 Q Did you ever look in the other side of his  
22 apartment, other than what you saw initially when you walked  
23 in?

24 A Yes. When I get ready to walk out, I went to check  
25 behind the door because the door, I have to shut it, so when

Robinson - People - Direct/Ms. Chu

1 I went to look behind it, I see him laying on the bed.

2 Q You saw Mr. Wilson laying on the bed?

3 A Laying on the bed.

4 Q How does the door to Mr. Wilson's apartment open,  
5 you have to pull it towards you or push it?

6 A It goes in.

7 Q It goes in?

8 A Yes.

9 Q You actually had to peek around the door?

10 A Right, right.

11 Q You said you saw him...where was he?

12 A Laying in the bed.

13 Q Can you tell me, how was his body when you saw him?

14 A His back was facing me and his head was facing the  
15 wall in front of him.

16 Q Did you go to touch him at all?

17 A No, I didn't. I didn't step no further when I  
18 looked around that door.

19 Q Can you tell me, was the apartment -- how was that  
20 apartment heated?

21 A Steam heat.

22 Q Does a tenant have the ability to turn off the  
23 steam heat so there is no more heat coming into the  
24 apartment?

25 A Yes.

Robinson - People - Direct/Ms. Chu

1 MR. WALENSKY: Objection to the leading, your  
2 Honor.

3 THE COURT: Don't lead the witness.

4 A Answer the question?

5 Q How does the heat work inside the apartment?

6 A Well, if he wants to turn the heat on, he can turn  
7 it on or turn it off. But it -- it's controlled by a  
8 thermostat.

9 Q Can you tell me, how did Mr. Wilson normally keep  
10 that apartment?

11 A Well, --

12 MR. WALENSKY: Objection.

13 If he knows.

14 THE COURT: If you know.

15 A Say that again.

16 THE COURT: If you know.

17 A Well, actually, I don't know how he keep the  
18 apartment.

19 THE COURT: Sustained as far as the question  
20 is too open ended.

21 Q When you went in on January 3rd, 2012, what was the  
22 temperature? Let me ask you, what was the temperature like?

23 A It was cool.

24 Q It was cool?

25 A It was cool.

Robinson - People - Direct/Ms. Chu

1 Q Okay.

2 Now, you said once you saw him you immediately  
3 stepped out of the apartment?

4 A Uh-huh.

5 Q Did you lock the door?

6 A Yes.

7 Q And then what did you do?

8 A I called my wife and I called the police.

9 Q Did there come a time when the police came to the  
10 apartment?

11 A Uh-huh.

12 Q Yes?

13 A Say that again.

14 Q Did there come a time when police actually  
15 responded based upon your 911 call?

16 A Yeah, they came.

17 Q Now, do you remember the last time that you saw Mr.  
18 Wilson prior to January 3rd, 2012, if you remember?

19 A Could have been like two months, maybe.

20 MS. CHU: Now, at this time, your Honor, if I  
21 can have the witness -- I am going to show him a couple  
22 of photographs.

23 THE COURT: Go ahead.

24 Q Mr. Robinson, taking a look at People's Number 3  
25 for identification -- I'm sorry, 3 in evidence.

Robinson - People - Direct/Ms. Chu

1 (Whereupon, the exhibit was displayed.)

2 Q Do you recognize that?

3 A Yes.

4 Q What is that?

5 A That's the apartment.

6 Q Mr. Wilson's apartment?

7 A Yes. That's the door to the apartment.

8 Q If I were standing here looking at this, if I were  
9 taking this picture, what street would this be (indicating)?

10 A Kosciuszko.

11 Q Taking a look at People's 4 in evidence.

12 (Whereupon, the exhibit was displayed.)

13 Q Do you recognize what this is a picture of?

14 A Yes.

15 Q What is that a picture of?

16 A That's a picture of the apartment.

17 Q Okay.

18 Now, you had mentioned that there were some sort of  
19 red or orange stuff. Do you see it in this picture?

20 A Yes, I see it.

21 Q There's like a remote.

22 THE COURT: A laser pointer.

23 Q It has a red button. That's a laser pointer.

24 A Right there (indicating).

25 MS. CHU: Let the record reflect he is

Robinson - People - Direct/Ms. Chu

1 pointing just inside the door.

2 Q If you walk in?

3 A Uh-huh.

4 Q Now, Mr. Robinson, taking a look at People's Number  
5 in evidence, do you recognize this?

6 A Yes.

7 Q What part of the apartment is this?

8 A That's right in front of the door.

9 Q Okay.

10 Do you see -- is that the kitchen area?

11 A Yes, that's the kitchen area.

12 Q Based upon the times when you have actually entered  
13 the apartment before January 3rd, 2012, was it -- did he ever  
14 keep his apartment like this?

15 A No.

16 Q Taking a look at People's 7 in evidence.

17 (Whereupon, the exhibit was displayed.)

18 Q Do you recognize that?

19 A Yeah, but I didn't see it like that.

20 Q Okay.

21 You weren't all the way in the apartment?

22 A No. When I peeked around the door.

23 Q Was that the approximate area where you saw Mr.  
24 Wilson's body when you looked and saw him on the bed?

25 A Yes.

Robinson - People - Cross/Mr. Walensky

1 Q Thank you very much.

2 MS. CHU: And if I can just have one moment,  
3 your Honor.

4 (Whereupon, there was a brief pause in the  
5 proceedings.)

6 MS. CHU: Thank you. I have no further  
7 questions.

8 THE COURT: Lights, please.

9 THE WITNESS: That's it?

10 THE COURT: No, no.

11 Cross.

12 CROSS-EXAMINATION

13 BY MR. WALENSKY:

14 Q Mr. Robinson, when Mr. Wilson lived in that  
15 apartment with his lady friend, did you ever hear them  
16 arguing?

17 A No.

18 Q Were the police ever called to that apartment?

19 MS. CHU: Objection.

20 THE COURT: Sustained.

21 You have to speak into the microphone, sir.

22 THE WITNESS: Okay.

23 THE COURT: Go ahead.

24 Q Only if you know, do you know if --

25 MS. CHU: Objection. That was just sustained,

LeBlond - People - Direct/Ms. Chu

1 that question.

2 THE COURT: I don't know what the question is  
3 now.

4 What is your question?

5 Q Was his girlfriend at the time ever escorted out of  
6 the apartment by police officers?

7 MS. CHU: Objection.

8 THE COURT: Sustained.

9 MR. WALENSKY: No further questions.

10 THE COURT: You may step down.

11 Thank you.

12 COURT OFFICER: You may step down, sir.

13 (Whereupon, Donet Robinson stepped down from  
14 the witness stand and exited the courtroom.)

15 THE COURT: Go ahead.

16 MS. CHU: The People call Richard LeBlond.

17 THE COURT: What's the name?

18 MS. CHU: Richard LeBlond. He wasn't on the  
19 witness list because I didn't know who it was.

20 THE COURT: How do you spell his last name?

21 MS. CHU: L-E-B-L-A-N-D.

22 COURT OFFICER: Ready for the witness?

23 THE CLERK: Yes.

24 (Whereupon, Richard LeBlond entered the  
25 courtroom and took the witness stand.)



LeBlond - People - Direct/Ms. Chu

1 THE CLERK: Please raise your right hand.

2 Do you solemnly swear or affirm the testimony  
3 you're about to give will be the truth, the whole truth  
4 and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please state your name.

7 THE WITNESS: Investigator Richard LeBlond.

8 THE CLERK: Spell your last name.

9 THE WITNESS: L-E-B-L-O-N-D.

10 THE CLERK: L-E-B --

11 THE WITNESS: Larry, Oscar, Nora, David.

12 THE CLERK: Thank you.

13 THE COURT: All right, proceed.

14 MS. CHU: Thank you.

15 R I C H A R D L E B L O N D, called as a witness by and  
16 on behalf of the People of the State of New York,  
17 after having been first duly sworn, was examined  
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. CHU:

21 Q Good afternoon, Mr. LeBlond.

22 A Good afternoon.

23 Q By whom are you employed?

24 A New York City Human Resources Administration.

25 Q In what capacity do you work?

LeBlond - People - Direct/Ms. Chu

1 A I'm an investigator.

2 Q Can you tell me, what are your duties and  
3 responsibilities as an investigator for HRA?

4 A I investigate allegations of Welfare fraud  
5 committed by individuals or groups.

6 Q How long have you worked for HRA?

7 A Almost six years.

8 Q Can you explain to the members of the jury what HRA  
9 does? What are their duties?

10 MR. WALENSKY: Objection, your Honor.

11 May we approach?

12 THE COURT: Want to frame your question  
13 differently?

14 MS. CHU: Okay.

15 Q Are you familiar with what Welfare is?

16 A Yes.

17 Q Can you tell me, does that have any part in what  
18 you do for HRA?

19 A Yes.

20 Q What is Welfare?

21 A It's also known as public assistance. It's  
22 generally broken down into three program areas.

23 MR. WALENSKY: Your Honor, note my continuing  
24 objection to this testimony.

25 Could we please have a sidebar with the

LeBlond - People - Direct/Ms. Chu

1 Reporter?

2 THE COURT: No, I'll let it go in.

3 Q You said there are three different types of public  
4 assistance?

5 A There are three main programs, which would be cash  
6 assistance, Medicaid benefits, and SNAP or food stamp  
7 benefits.

8 Q Can you tell me, how would someone go about  
9 obtaining public assistance?

10 A They would apply at their local job center.

11 Q How is it that HRA determines whether they get cash  
12 benefits, Medicaid benefits or food stamp benefits?

13 A Depends on -- you have to be a resident of New York  
14 City. It depends on, usually, your income and your assets.

15 Q Now, are there any rules for how a client can use  
16 their benefits?

17 A Yes. Depending on which program it would be. For  
18 example, food stamp benefits can only be used for food items.

19 Q Okay.

20 What about cash benefits?

21 A There is no regulation on cash benefits. You can  
22 use the cash for whatever you want.

23 Q And how is it that a client actually can use their  
24 benefits, like are they given anything, do they have to  
25 use -- like in the old days you were actually given paper,

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1 right?

2 A So now it's through a benefit card. It's basically  
3 like a bank card. All your benefits are on one single card,  
4 so if you go to the store and make a purchase for a loaf of  
5 bread, you use that card along with your PIN number. If you  
6 go to the doctor or a pharmacy or dentist, you also provide  
7 that card, like it would be your health coverage card.

8 Q Now, if you were to enter a store, let's say, and  
9 try and get either cash benefits or food stamp benefits, are  
10 you always required to use a PIN or can you give the actual  
11 I.D. number?

12 A You are always required to use your PIN number.

13 Q Now, can you tell me, does HRA keep records of the  
14 transaction history of their clients?

15 A We do.

16 Q Can you tell me, did there come a time in May of  
17 2012 when you were contacted by a Detective Christopher  
18 Scandole?

19 A Yes.

20 Q And can you tell me, did you provide him with any  
21 records as a result of his contact with you?

22 A I did.

23 Q Whose records did you provide him with?

24 A The records for Anthony Wilson and Atara Wisdom.

25 Q Were you given a timeframe or a time period that

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1 you were supposed -- that you were giving them the records  
2 for?

3 A I was.

4 Q What's the timeframe?

5 A September 1st, 2011 until May 31st, 2012.

6 Q Now, were those records kept in the regular course  
7 of business for the Human Resources Administration?

8 A Yes.

9 Q And can you tell me, is it part of the regular  
10 course of business to record the use of benefits on the card?

11 A Yes.

12 Q And is it also in the regular course of business  
13 for you to produce and maintain the transaction history for  
14 your clients' accounts?

15 A Yes.

16 Q Were you a custodian of those records?

17 A Yes.

18 Q What does that mean, to be a custodian of the  
19 records?

20 A We -- we have and hold the history of the  
21 transactions.

22 MS. CHU: At this time, your Honor, if I can  
23 show the witness People's -- I can deem this People's 43  
24 and 44.

25 (Whereupon, the exhibits were shown to

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1 counsel.)

2 (Whereupon, the documents was marked as  
3 People's Exhibits 43 and 44 for identification.)

4 (Whereupon, the exhibits were handed to the  
5 witness.)

6 MR. WALENSKY: Your Honor, may we have a  
7 sidebar?

8 THE COURT: Come on up.

9 (Whereupon, a sidebar conference was held off  
10 the record.)

11 THE COURT: You have an objection to the  
12 introduction of these records?

13 MR. WALENSKY: Yes, your Honor, I do.

14 THE COURT: All right. Objection is noted and  
15 overruled.

16 Proceed.

17 Q Mr. LeBlond, can you take a look at what's been  
18 marked People's 43 for identification and tell me, what is  
19 that?

20 A This is the transaction history, the EBT  
21 transaction history or Electronic Benefit Transfer history of  
22 Anthony Wilson.

23 Q Can you tell me, what time period is that for?

24 A September 1st, 2011 to May 31st, 2012.

25 THE COURT: What are the dates?

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1 THE WITNESS: September 1st, 2011.

2 THE COURT: September 1st, 2011 to when?

3 THE WITNESS: May 31st, 2012.

4 THE COURT: Okay.

5 Q Who created that transaction history for Mr.  
6 Wilson?

7 A Who -- who printed it?

8 Q Right.

9 Were you the one that provided that to Detective  
10 Scandole?

11 A I was. I was.

12 Q Can you tell me, do those EBT records pertain to  
13 the account that's in the name of Anthony Wilson?

14 A Yes, they do.

15 MS. CHU: At this time, your Honor, I would  
16 like to move that into evidence as People's 43.

17 MR. WALENSKY: Objection.

18 THE COURT: Objection is noted. Overruled.

19 (Whereupon, the document was marked as  
20 People's Exhibit 43 in evidence.)

21 MR. WALENSKY: I would request another  
22 curative instruction to the jury.

23 THE COURT: There's no need to do that.

24 Proceed. Let's go.

25 Q Mr. LeBlond, can you tell me, taking a look at

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1 People's 44 for identification, do you recognize that  
2 document?

3 A Yes.

4 Q What is that document?

5 A This is the transactions, the EBT, Electronic  
6 Benefit Transfer transactions for Atara Wisdom.

7 Q How is it that you can recognize that that's what  
8 that is?

9 A I obtained this record, I printed this record.

10 Q For Detective Scandole?

11 A Correct.

12 MS. CHU: Now, at this time, your Honor, I  
13 would offer that into evidence as People's 44.

14 THE COURT: Same objection.

15 MR. WALENSKY: Same objection.

16 THE COURT: Overruled.

17 Electronic Benefits...what is the T?

18 THE WITNESS: Transfer. That's the T.

19 (Whereupon, the document was marked as  
20 People's Exhibit 44 in evidence.)

21 THE COURT: Go ahead.

22 Q Looking at the EBT records that pertain to Mr.  
23 Wilson, do you have a copy of that on you?

24 A I do.

25 MS. CHU: So, your Honor, if I can have the



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1 exhibits so I can put them on the board?

2 THE COURT: Go ahead.

3 (Whereupon, the exhibits were handed to  
4 counsel.)

5 THE COURT: Lights, please.

6 (Whereupon, the exhibit was displayed.)

7 Q So taking a look at People's 43 in evidence, you  
8 stated that this was the record, the transaction history for  
9 Mr. Wilson. Where on this document do you see his name?

10 A Under Receip name, or recipient's name is what it  
11 stands for, here (indicating).

12 Q Anthony Wilson, right here (indicating)?

13 A Correct.

14 Q What are the different --

15 What are all the different pieces of information  
16 that are -- that you can learn based upon this transaction  
17 history?

18 A You would learn -- the basics are the name of the  
19 store where a transaction took place, the address of that  
20 store.

21 Q Okay?

22 A The card number which was used.

23 Q Okay?

24 A The date and time of the transaction.

25 What type of transaction was it, was it a debit or

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1 was it a credit.

2 Q Okay?

3 A Was the card, the physical card, swiped or was the  
4 card number keyed in.

5 And then the amount completed, which is how much  
6 you made the purchase for and then the balance remaining.

7 Q Okay.

8 Now, I just scrolled across the top of People's 43  
9 on the first page. Can you tell me, what is DB in this  
10 column here, DB, CR, IND?

11 A That's the debit or credit indicator. So, CR would  
12 be credit, where your card is being credited money.

13 Q Okay?

14 A Or DB, debit, where you go and make a transaction  
15 and money is debited off the card.

16 Q You also had mentioned that there is a difference  
17 in the card entry type, whether it's swiped versus keyed in.

18 A Correct.

19 Q Can you tell me where you would see that on this  
20 exhibit, on page 1?

21 A Right. So under the "card entry type" column it  
22 would either have S or a K. S would be swiped, meaning a  
23 physical benefit card was swiped through the machine. If for  
24 some reason the magnet strip on the card is broken and it  
25 can't be read by the machine, the card number can be punched

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1 into the machine.

2 Q So it's manually put in?

3 A Correct, which would be K.

4 Q So on the first two entries, which are these two,  
5 CR, that was monies that were put into the account?

6 A Correct. That was his benefit update, his monthly  
7 allotment.

8 Q Now, did Mr. Wilson have cash benefits related to  
9 his HRA benefits?

10 A He did.

11 Q Did he also have food stamp benefits?

12 A He did.

13 Q If I can just direct your attention to -- I'm  
14 sorry.

15 Taking a look at this first page of People's 43 in  
16 evidence, can you tell me where were -- can you tell where  
17 and the frequency that Mr. Wilson or that Mr. Wilson's card  
18 was used in September of 2011?

19 THE COURT: You mean the site?

20 MS. CHU: The location of where he was using  
21 it, right.

22 A In September of 2011?

23 Q 2011, right.

24 A It would be 1075 Broadway, 1117 Broadway -- these  
25 are all in Brooklyn, New York -- 1173 Broadway, 928 Broadway,

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1 1184 Broadway, 1076 Broadway, 1082 Broadway.

2 Q Did that continue into November -- I'm sorry --  
3 October and November?

4 A Yes, along with some other locations.

5 Q Okay.

6 So mostly around Broadway where he was or where the  
7 card was being used?

8 A Yes.

9 Q Taking a look at page 2 of People's 43. For  
10 November 22, 2011 where was the terminal that he used, that  
11 the card was used at?

12 A It was at 1254 Broadway, Brooklyn, New York.

13 Q Now, starting December 6th of 2011, was the card  
14 used at different locations than what you just previously  
15 mentioned?

16 THE COURT: September 6th?

17 MS. CHU: December 6th, 2011.

18 A Yes.

19 Q Now, where was the card being used?

20 A At 6241 Rockaway Avenue, Brooklyn, 146 East 98th  
21 Street, Brooklyn, 80 East 93rd Street, and it goes on back to  
22 Rockaway Avenue.

23 MR. WALENSKY: Can we have the dates?

24 THE WITNESS: So December 6th was 241 Rockaway  
25 Avenue. Again December 6th, 146 East 98th Street.

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1 Again on December 6th, 80 East 93rd Street. December  
2 22nd, back at 241 Rockaway Avenue. January 7th, 2012,  
3 706 Ralph Avenue. Again on the 7th, 1033 Rutland Road,  
4 again.

5 THE COURT: What date?

6 THE WITNESS: Again on January 7th.

7 THE COURT: Yes.

8 THE WITNESS: 706 Ralph Avenue was the first  
9 one on January 7th.

10 THE COURT: What was the second one?

11 THE WITNESS: 1033 Rutland Road, Brooklyn, New  
12 York.

13 Q Can you tell me, of those transactions that you  
14 just mentioned, starting from December 6th on, were there --  
15 remember you had mentioned either swiped the card or keyed in  
16 the card?

17 A Yes.

18 Q How was the item used?

19 A So for the first transaction on December 6th, 2011  
20 at 241 Rockaway Avenue, that transaction was keyed in.

21 Q "Keyed in" meaning the person just entered --

22 A The card number was punched into the machine.

23 Q And so that would be indicated by -- under the card  
24 entry type -- a K?

25 A Correct.

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1 Q And the S, if that was under that column, that  
2 would mean that the actual card was swiped?

3 A Correct.

4 Q Thank you.

5 Now, taking a look at People's 44 in evidence, can  
6 you tell me, does the record give the same type of  
7 information for Atara Wisdom?

8 A Yes.

9 Q Can you tell me, starting in September of 2011,  
10 where are the places that that card was being used?

11 A In September 2011 the card was being used at 912  
12 Gates Avenue, 1011 Rutland Road, 846 Broadway, 361 Sutter  
13 Avenue, 441 Mother Gaston Boulevard.

14 THE COURT: 4-1...

15 THE WITNESS: 4-4-1.

16 THE COURT: Oh, 4-4-1.

17 THE WITNESS: Mother Gaston Boulevard.

18 1113 Rutland Road.

19 Q Okay.

20 And taking a look at People's 44, page 2.

21 (Whereupon, the exhibit was displayed.)

22 Q I'm sorry.

23 Yes, People's 44, page 2, towards the bottom.

24 Is there any entries for December of 2011?

25 A Yes.

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1 Q Where was the card utilized on those dates?

2 A They were used at 8811 Flatlands Avenue, 1011  
3 Rutland Road, 980 Rutland Road.

4 THE COURT: Go ahead.

5 Q Can you tell me, how do you determine whether or  
6 not the cash benefit -- I'm sorry, withdrawn.

7 Did Ms. Wisdom obtain cash benefits on her HRA  
8 account?

9 A She did.

10 Q Did she also obtain food stamps? Was she getting  
11 food stamps?

12 A She was.

13 Q And can you tell me how --

14 Can you tell from this chart that you have whether  
15 or not the cash benefit was being used or the Welfare part  
16 was being used -- I'm sorry -- the food stamp was being used?

17 A That would be under the "transaction type."

18 Q Okay.

19 A Column for transaction.

20 Q Towards the right-hand side, that is this column  
21 right here (indicating)?

22 A It would be the one after the debit or credit  
23 indicator.

24 Q Towards the right-hand side of the chart?

25 A Correct.

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1 Q And can you tell me, what are the different codes  
2 that you have here, 301, 201?

3 A So the different codes would differentiate between  
4 whether it was food stamp, debit or credit or cash debit or  
5 credit, if it's just your monthly allotment being credited to  
6 your card.

7 Q Okay.

8 Can you tell me, what was the code for cash, for a  
9 cash advance? What do they call it?

10 A A cash purchase or transaction would be 306.

11 Q So 306 indicates that you actually received cash  
12 back for when you used your card?

13 A That is incorrect. 306 would indicate if it was a  
14 cash transaction, so I made a cash purchase.

15 Q So you could buy anything you want with that?

16 A Right.

17 MR. WALENSKY: Objection, your Honor. This is  
18 so far afield of the narrative essence of this.

19 THE COURT: Overruled.

20 Q So with the benefit card that Mr. Wilson had he was  
21 able to actually obtain cash just to have in his hand?

22 A Yes.

23 Q And what would be the code for that?

24 A 306.

25 Q You said that it has -- you have to actually make a



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1 purchase. I don't understand what you meant.

2 A So using your benefit card, if you wanted to -- if  
3 you had cash benefits and you wanted to buy a nonfood item,  
4 because you can only buy food with food stamps or food stamp  
5 benefits, you could go to the register and let's say it was a  
6 roll of paper towels, you would use your benefit card, the  
7 cash portion of your benefit card and swipe it like you would  
8 your bank card or credit card.

9 Q So my question for you is, then, the benefits that  
10 were being received by Ms. Wilson -- I'm sorry -- Mr. Wilson  
11 and Ms. Wisdom, allow them to actually get cash in their  
12 hand?

13 A Yes, you can also draw cash from an ATM.

14 Q What would be the code for that?

15 A I believe it would also be 306.

16 Q Is there any way to distinguish between whether  
17 they had purchased something at a store that's nonfood items  
18 versus actually getting cash in hand?

19 MR. WALENSKY: Objection, your Honor. This  
20 has nothing to do with the narrative.

21 THE COURT: Objection sustained.

22 Q Okay.

23 Now, can you tell me, directing your attention to  
24 People's 44, I guess it's the third page, did there come a  
25 time when the EBT card for Ms. Wisdom was used outside of

LeBlond - People - Direct/Cross

1 Brooklyn?

2 MR. WALENSKY: Objection.

3 A Yes.

4 THE COURT: Overruled.

5 The record's in evidence. Overruled.

6 Q Where was it being used?

7 A It was being used in Pennsylvania, in New Jersey,  
8 along with Brooklyn.

9 Q Along with Brooklyn?

10 A Yes.

11 MS. CHU: Thank you very much.

12 I have no further questions for this witness.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MR. WALENSKY:

16 Q Sir, do you have any way of knowing who was using  
17 the benefits cards of Anthony Wilson subsequent to November  
18 30, 2011?

19 A No.

20 Q Could have been anybody, right?

21 A Anyone with his PIN number.

22 Q Anyone with his PIN, anyone with access to it?

23 A Correct.

24 Q Could be any number of people, couldn't it? Could  
25 be one person, right?

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1 A Could.

2 Q Could be two or three, right?

3 A It could.

4 Q Now, there were charges at different stores in  
5 different areas, right?

6 A Yes.

7 Q In your experience as an investigator, sometimes  
8 several people will use a benefits card, isn't that true?

9 THE COURT: Reframe your question.

10 Q Okay.

11 You've had experience with stolen benefits cards?

12 A I have.

13 Q Benefits cards sometimes being used by --

14 Stolen cards sometimes used by several people or  
15 you just don't know? You don't know?

16 A I'm going to say I don't know.

17 MR. WALENSKY: No further questions.

18 THE COURT: You may step down. Thank you.

19 THE WITNESS: Thank you.

20 (Whereupon, Richard LeBlond stepped down from  
21 the witness stand and exited the courtroom.)

22 THE COURT: Come on up.

23 (Whereupon, a sidebar conference was held off  
24 the record.)

25 THE COURT: All right, call your next witness.

P.O. Marsden - People - Direct/Ms. Chu

1 MS. CHU: The People call Police Officer  
2 Garrett Marsden.

3 (Whereupon, there was a brief pause in the  
4 proceedings.)

5 COURT OFFICER: You ready for the witness?  
6 Judge, ready for the witness?

7 THE COURT: Yes.

8 COURT OFFICER: Witness entering.

9 (Whereupon, Police Officer Garrett Marsden  
10 entered the courtroom and took the witness stand.)

11 THE CLERK: Please raise your right hand.

12 Do you solemnly swear or affirm the testimony  
13 you're about to give will be the truth, the whole truth  
14 and nothing but the truth, so help you God?

15 THE WITNESS: Yes.

16 THE CLERK: Please put your hand down.

17 State your name for the record.

18 THE WITNESS: Officer Marsden.

19 THE CLERK: Spell your first and last name.

20 THE WITNESS: G-A-R-R-E-T-T.

21 THE CLERK: Last name?

22 THE WITNESS: M-A-R-S-D-E-N.

23 THE CLERK: Can you give your shield number?

24 THE WITNESS: 4797.

25 THE CLERK: Your command?

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1 THE WITNESS: Currently in harbor.

2 THE CLERK: Thank you.

3 You can have a seat.

4 THE COURT: Pull up your chair.

5 When you respond to the question, just put  
6 your lips close to the microphone.

7 THE WITNESS: Sure.

8 THE COURT: Proceed.

9 MS. CHU: Thank you.

10 G A R R E T T M A R S D E N, Police Officer, Shield No.  
11 4797, Harbor, New York City Police Department,  
12 called as a witness by and on behalf of the  
13 People of the State of New York, after having been  
14 first duly sworn, was examined and testified as  
15 follows:

16 DIRECT EXAMINATION

17 BY MS. CHU:

18 Q Good afternoon, Officer.

19 A Good afternoon.

20 Q How long have you been a member of the New York  
21 City Police Department?

22 A For nine years.

23 Q And you said you're currently assigned to Harbor.

24 What is that?

25 A That's correct. It's police on the water.

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1 Q Okay.

2 Can you tell me, how long have you been there?

3 A For two years.

4 Q Where were you prior to that?

5 A In the 83rd Precinct, Bushwick.

6 Q And prior to the 83rd Precinct?

7 A In the 7-5 Precinct, East New York.

8 Q How long were you at the 83rd Precinct?

9 A For about six years.

10 Q Now, can you just tell me --

11 Directing your attention to January 3rd, 2012.

12 A Yes.

13 Q Were you working as an officer in the 83rd Precinct  
14 on that date?

15 A Yes, I was.

16 Q Can you tell the members of the jury what hours you  
17 were assigned to work?

18 A Day tour, seven o'clock to about 3:30 in the  
19 afternoon.

20 Q Were you in uniform that day?

21 A Yes, I was.

22 Q And were you assigned to a car?

23 A Yes.

24 Q Was the car marked or unmarked?

25 A It was a marked police car, the numbers were 3307.

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1 Q Now, were you assigned to a partner?

2 A Yes.

3 Q Who was that?

4 A Officer Ortiz.

5 Q And what is Officer Ortiz' first name?

6 A Juana.

7 Q Now, can you tell me, at approximately 10:30 A.M.  
8 what, if anything, happened?

9 A At 10:32 A.M. I received a job for an aided victim  
10 at 832 Bushwick Avenue.

11 Q Did they give you --

12 When you got the job, did they give you a code for  
13 it?

14 A It was a 10-54.

15 Q What is a 10-54?

16 A Aided victim.

17 Q Did you actually respond to 832 Bushwick Avenue?

18 A Yes, I did.

19 Q Approximately how long after you were notified did  
20 you actually arrive at the location?

21 A At about 10:58 I arrived at the location, less than  
22 a half an hour, 26 minutes.

23 Q Okay.

24 Can you tell me, 10-54 for a male aided, is that --  
25 are there different urgencies for different codes?

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1 A Yes.

2 Q 10-54 male aided, is that an urgent code?

3 A There are other codes that are more urgent than  
4 that.

5 Q Can you tell me, describe 832 Bushwick for me.

6 A The address that I responded to was a side entrance  
7 off of Bushwick Avenue. I believe it was on Kosciuszko  
8 street or avenue.

9 Q And when you got to the location, did you actually  
10 speak with anybody that was there with regard to the call  
11 that came in?

12 A Yes, I spoke with the owner of the building, the  
13 landlord.

14 Q All right.

15 Can you tell me, did he then bring you someplace?

16 A Yes, he brought me to the side entrance where he  
17 then opened the door for me.

18 Q Tell us what you saw?

19 A At that time the door opened up, I entered a large  
20 apartment building or apartment room. Off to the left-hand  
21 side was a bed where I observed a dead male or deceased male  
22 lying in the bed.

23 Q Can you tell me, what was the state of the actual  
24 apartment itself?

25 A It was -- it was a mess. There was clothing and



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1 towels randomly placed throughout the -- or laid throughout  
2 the apartment. There was blood. There was a foul odor as  
3 soon as the door opened up as well.

4 Q Can you tell me how long you were at the scene?

5 A If I can refer to my notes?

6 THE COURT: You may.

7 A 10:30 in the morning until -- actually, it's 10:58  
8 when I arrived and I was relieved by Officer Carlin at 3:55  
9 P.M.

10 Q Now, while you were there did Crime Scene Unit  
11 detectives arrive and process the scene?

12 A Yes, they did.

13 Q Now, was an ambulance called to the scene while you  
14 were there?

15 A Yes, I believe they were there when I arrived but  
16 they had not made entry.

17 Q They had not gone in?

18 A Not until I arrived.

19 Q Okay.

20 And I want to direct your attention now to January  
21 the 9th of 2012.

22 Did you go to the Office of the Chief Medical  
23 Examiner here in Brooklyn?

24 A Yes, I did.

25 Q And what was your purpose for going there?

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1 A To identify the deceased's body.

2 Q Now, did you learn the name of the individual that  
3 you saw deceased on the bed inside of the apartment at 832  
4 Bushwick Avenue?

5 A Yes, I did. It was Anthony Wilson.

6 Q Now, did you identify his body on January 9th, 2012  
7 at the office of the M.E.?

8 A At 11:10 hours.

9 Q Is that the same person that you had seen  
10 apparently dead on the bed?

11 A That's correct.

12 Q Now, did you actually get to look at the body when  
13 you were inside the apartment?

14 A Yes, I did.

15 Q Could you see any obvious injuries at all?

16 A There were small puncture wounds on the chest and  
17 there was some little blood.

18 Q Other than the duties and responsibilities that you  
19 just described, did you have any further involvement in the  
20 case?

21 A I just secured the crime scene.

22 MS. CHU: At this time, your Honor, if I can  
23 just show the witness some exhibits.

24 THE COURT: Go ahead.

25 Q Taking a look at People's 3 in evidence.

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1 (Whereupon, the exhibit was displayed.)

2 Q What is that a picture of?

3 A That's the entry door to the apartment.

4 Q That you responded to on January 3rd, 2012?

5 A That's correct.

6 Q Okay.

7 Can you tell me, taking a look at People's 4 in  
8 evidence, what is that a picture of?

9 A That's the door open into the apartment room.

10 Q Does this picture fairly and accurately depict how  
11 the scene appeared when you arrived at around 10:58 A.M. on  
12 January 3rd, 2012?

13 A Yes, it does.

14 Q Taking a look at People's 5 in evidence.

15 (Whereupon, the exhibit was displayed.)

16 Q Do you recognize this photo?

17 A Yes, I do.

18 Q What is that a picture of?

19 A It's also the apartment.

20 Q Is this photograph a fair and accurate depiction of  
21 how the apartment appeared when you were there on January  
22 3rd, 2012?

23 A Yes, it is.

24 Q Taking a look at People's 6 in evidence.

25 (Whereupon, the exhibit was displayed.)

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1 Q Do you recognize this?

2 A Yes, I do.

3 Q And what is this a picture of?

4 A This is also the apartment.

5 Q If you were to walk into the apartment, which way  
6 would you turn in order to see this?

7 A I believe the door's on the right there.

8 Q That is the front entrance?

9 A Yes.

10 Q Thank you.

11 And taking a look at People's 7 in evidence.

12 (Whereupon, the exhibit was displayed.)

13 Q What are we looking at here?

14 A Once you enter the apartment through that door,  
15 that would be to the left. It's -- it's the deceased male  
16 lying on the bed.

17 Q Is that the --

18 Does this picture fairly and accurately depict how  
19 the victim appeared when you first arrived at the location on  
20 January 3rd, 2012?

21 A Yes.

22 Q Now, you had mentioned that you saw some what  
23 appeared to be puncture wounds to the chest of the victim.

24 A That's correct.

25 Q I just ask you to take a look at People's Number 11

P.O. Marsden - People - Direct/Ms. Chu

1 in evidence.

2 (Whereupon, the exhibit was displayed.)

3 Q Taking a look at People's 11, do you see the  
4 puncture wounds that you remember seeing on January 3rd,  
5 2012, in this photograph?

6 MR. WALENSKY: Objection as to form.

7 THE COURT: What was the question?

8 (Whereupon, the referred-to question was read  
9 back by the Reporter.)

10 THE COURT: Overruled.

11 Q You can answer.

12 A Yes, I do.

13 Q Can you just --

14 There's a remote in front of you with a red button.  
15 That is a laser pointer.

16 A Yes.

17 Q Can you show me where it is that you saw what you  
18 say appeared to be puncture wounds?

19 A There (indicating), right there (indicating).

20 MS. CHU: Let the record reflect that he is  
21 referring to the bottom portion of People's 11 in  
22 evidence as well as directly above that.

23 If I can have one moment, your Honor.

24 (Whereupon, there was a brief pause in the  
25 proceedings.)

Proceeding

1 MS. CHU: I have no further questions for this  
2 witness.

3 THE COURT: Cross.

4 Any cross?

5 MR. WALENSKY: No, your Honor.

6 THE COURT: Thank you very much. You may step  
7 down.

8 (Whereupon, the Police Officer Marsden stepped  
9 down from the witness stand and exited the courtroom.)

10 THE COURT: All right, ladies and gentlemen,  
11 at this time we're going to adjourn for the luncheon  
12 recess.

13 Do not discuss the case amongst yourselves or  
14 with anyone else. Do not visit the place where the  
15 alleged crimes occurred. Have no contact with any of  
16 the parties involved, including the Court.

17 And, again, do not resort to utilizing any  
18 electronic digital devices for the purpose of obtaining  
19 any information about this matter.

20 Have a very good lunch and you return 2:15, No  
21 later.

22 Thank you.

23 Just leave your books there.

24 (Whereupon, the Jury exited the courtroom.)

25 THE COURT: All right, the Court is in recess

Proceeding

1 until 2:15.

2 MR. WALENSKY: Your Honor, I would like to  
3 make a motion.

4 THE COURT: Just one minute.

5 MR. WALENSKY: Your Honor, we were litigating  
6 whether the representative from Welfare should testify  
7 at all and Ms. Chu had represented that she needed it as  
8 a narrative, to complete the narrative. She spoke about  
9 one date, December 6th, and the Court was giving an  
10 instruction to the jury regarding the fact that, you  
11 know, she -- first I think the Court's instruction, one,  
12 wasn't strong; two, was error, in terms of the people  
13 never made a Molineux application.

14 THE COURT: So what? They were -- they were  
15 negligent in making it earlier but there is no rule that  
16 says they could not make it at that time.

17 MR. WALENSKY: And they far exceeded the  
18 narrative, the extent. I think the Court also stated  
19 that it didn't matter that she had used the card in New  
20 Jersey or -- I mean, what probative value that she had  
21 it in New Jersey, in Queens, in all these areas. By  
22 allowing in those records, that does, in essence,  
23 contradict your own ruling and --

24 THE COURT: How?

25 MR. WALENSKY: The People could have

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1 established --

2 THE COURT: How?

3 MR. WALENSKY: By letting it in, it's showing  
4 where this is used all over and you had said that the  
5 prejudice exceeded the probative value.

6 Additionally, --

7 THE COURT: I didn't say --

8 MR. WALENSKY: Additionally, the length of  
9 time that --

10 THE COURT: I didn't say the prejudice  
11 exceeded the probative value. I said that the probative  
12 value exceeded any prejudice. And, so, I don't  
13 understand your argument.

14 MR. WALENSKY: Additionally, what I'm saying  
15 is that the People, without putting all of the records  
16 into evidence, which extend for a long period of time,  
17 they just wanted to show that subsequent to November  
18 30th the card was used. It could have been used --

19 THE COURT: What purpose would it serve the  
20 People to put in all of the records?

21 MR. WALENSKY: Because it shows, even though  
22 you are saying she is not charged with this uncharged  
23 crime, it prejudices her because it's showing that this  
24 card is being used by somebody.

25 THE COURT: It's already established that the



## Proceeding

1 card was used.

2 MR. WALENSKY: Yeah.

3 THE COURT: And I already ruled on the issue  
4 and the records, business records came in under the  
5 business record rule and he testified as to what these  
6 records showed. They are in evidence.

7 MR. WALENSKY: It was incorrect to allow all  
8 those records in under the business record rule. It  
9 could have been an exhibit and they could have just  
10 argued on this date and this date, that would have been  
11 fine, it would have been testified that the card was  
12 used on several subsequent dates and then the People are  
13 then comparing the usage and this is why -- this, to me,  
14 was disingenuous. People are comparing the usage, how  
15 Atara Wisdom used this card at these stores on these  
16 dates and subsequent to the death of Mr. Wilson the card  
17 was used at the same stores that Atara Wisdom  
18 frequented. And that's not being shown to show the  
19 narrative, that is being shown to show that she used  
20 those cards and that this was a dishonest act and it  
21 doesn't do anything about narrative, all it does is  
22 support the fact that the People are trying to get  
23 across she took the card, she used it illegally and  
24 she's bad for that reason and it is used far in excess.

25 I think there has to be at least another

## Proceeding

1 attempt at a curative instruction. But, actually, I am  
2 moving for a mistrial regarding these errors.

3 THE COURT: The application is denied. At the  
4 close of the case I will reinstruct the jury on the  
5 Molineux.

6 MR. WALENSKY: Please. Thank you.

7 THE COURT: All right, 2:15.

8 Thank you.

9 (Whereupon, a lunch recess was held.)

10 \* \* \*

11 A F T E R N O O N S E S S I O N

12 \* \* \*

13 THE CLERK: Come to order, Part 2 is back in  
14 session.

15 THE COURT: Okay, bring the defendant back  
16 out.

17 Who is your next witness?

18 MS. CHU: My next witness is Richard Schoen,  
19 he's from the 911 Communications Department,  
20 S-C-H-O-E-N.

21 THE COURT: Richard, you say?

22 MS. CHU: Richard, yes.

23 THE CLERK: Case back on trial. Defendant is  
24 present with her attorney, all parties present.

25 (Whereupon, there was a brief pause in the

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1 proceedings.)

2 THE COURT: Bring the jury in.

3 COURT OFFICER: Jury entering.

4 (Whereupon, the Jury entered the courtroom.)

5 THE CLERK: All the jurors are present and  
6 seated.

7 Both sides waive the roll call?

8 MS. CHU: Yes.

9 THE CLERK: Mr. Walensky?

10 MR. WALENSKY: Yes.

11 THE COURT: Call your next witness.

12 MS. CHU: The People call Mr. Richard Schoen.

13 (Whereupon, there was a brief pause in the  
14 proceedings.)

15 COURT OFFICER: Ready for the witness?

16 THE COURT: Yes.

17 COURT OFFICER: Witness entering.

18 (Whereupon, Richard Schoen entered the  
19 courtroom and took the witness stand.)

20 THE CLERK: Raise your right hand.

21 Do you solemnly swear or affirm the testimony  
22 that you're about to give will be the truth, the whole  
23 truth and nothing but the truth, so help you God?

24 THE WITNESS: Yes.

25 THE CLERK: Please state your name for the

Schoen - People - Direct/Ms. Chu

1 record.

2 THE WITNESS: My first name is Richard,  
3 Schoen, spelled S-C-H-O-E-N.

4 THE CLERK: S-C-H --

5 THE WITNESS: O-E-N.

6 THE CLERK: Thank you.

7 THE COURT: Proceed.

8 R I C H A R D S C H O E N, called as a witness by and  
9 on behalf of the People of the State of New York,  
10 after having been first duly sworn, was examined  
11 and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. CHU:

14 Q Good afternoon, Mr. Schoen.

15 A Hi.

16 Q By whom are you employed?

17 A By the New York City Police Department.

18 Q And in what capacity do you work for the New York  
19 City Police Department?

20 A I'm presently a police communication technician.

21 Q So are you a civilian or are you an officer?

22 A Civilian.

23 Q What is --

24 What are your duties and responsibilities as a  
25 technician?

Schoen - People - Direct/Ms. Chu

1 A Well, part of them I am in the capacity of tape  
2 technician and we retrieve the messages and as far as 911  
3 calls and radio transmissions and route them to the  
4 appropriate District Attorney's office.

5 Q Okay.

6 In that capacity are you a legal custodian for 911  
7 records?

8 A Yes.

9 Q How long have you worked for the department?

10 A Thirty-eight years.

11 Q And how long have you been in the Communications  
12 section?

13 A I've been in Communications for 38 years and tape  
14 and records for 25 years.

15 Q Can you explain to the members of the jury what  
16 happens when someone calls 911?

17 A Once the 911 call is received by a 9-11 operator,  
18 it is the duty of the operator to screen the call to see if  
19 police, fire or medical assistance referral is necessary.

20 Q Okay.

21 Can you tell me, as the 911 operator, can you see  
22 the phone number that the 911 caller is calling from?

23 A Yes.

24 Q Have you had an opportunity to review 911  
25 recordings from November 29th, 2011?

Schoen - People - Direct/Ms. Chu

1 A Yes.

2 Q And did that include the 911 call from a number  
3 (347) 793-1940?

4 A Yes.

5 Q Were those records kept in the regular course of  
6 business for the Police Department?

7 A Yes.

8 Q Is it part of the regular course of business to  
9 record calls received by 911 operators?

10 A Yes.

11 Q And is it also in the regular course of business  
12 for you to produce and maintain a master copy of that  
13 recording?

14 A Yes.

15 Q Are there duplications made of the master  
16 recordings?

17 A Yes.

18 Q Are they changed in any way from the original 911  
19 call?

20 A No.

21 Q Are you a custodian of those records?

22 A Yes.

23 MS. CHU: At this time, your Honor, if I can  
24 have the witness shown People's 42 in evidence subject  
25 to connection.

Schoen - People - Direct/Ms. Chu

1 THE COURT: Show him.

2 (Whereupon, the exhibit was handed to the  
3 witness.)

4 Q Mr. Schoen, taking a look at People's 42 in  
5 evidence, do you recognize that?

6 A Yes.

7 Q What do you recognize that to be?

8 A It's one of our disks that we had put a call on to.

9 Q Do you make the copies on to that?

10 A Yes.

11 Q Are there markings that are made on the actual disk  
12 itself?

13 A Yes, there is a title called New York City Police  
14 Department. We also put the tape room location and job  
15 number.

16 Q What were the tape room job number and location  
17 assigned to that disk that you have in your hands?

18 A The tape room job number is 201224557.

19 Q Is there a reference to the phone number that  
20 called 911 on that tape?

21 A Yes.

22 Q What is that?

23 A (347) 793-1910 is listed on here.

24 Q Okay.

25 But according to your records, is it from 1940?

Schoen - People - Direct/Ms. Chu

1 A That's what the request has, yes. That is the  
2 printed request.

3 Q Can you tell me, is there a date of that 911 call  
4 on that disk?

5 A 11/29/11.

6 MS. CHU: Okay.

7 At this time, your Honor, I'd like to play  
8 People's 42 for the witness, and I do have a transcript  
9 for easy reading for any of the jurors, if they want, or  
10 anyone in the courtroom.

11 THE COURT: All right, hand them out.

12 By the way, ladies and gentlemen, the  
13 transcript is merely an aid, it's not in evidence. It's  
14 to help you understand the tape that's being played.

15 (Whereupon, there was a brief pause in the  
16 proceedings.)

17 THE COURT: Go ahead.

18 MS. CHU: Thank you.

19 Q Mr. Schoen, I'm going to play for you a tape. If  
20 you can just tell me whether or not you recognize it.

21 A Okay.

22 (Whereupon, the exhibit was played in open  
23 court.)

24 Q Mr. Schoen, do you recognize what was played for  
25 you?



Schoen - People - Direct/Ms. Chu

1 A This was on the disk, the 9-11 call.

2 Q Is that an exact reproduction of the 911 call that  
3 was made on November 29th, 2011, number (347) 793-1940,  
4 according to your records?

5 A Best of my knowledge, yes.

6 MS. CHU: At this time, your Honor, I would  
7 move it into evidence. It was subject to connection.

8 THE COURT: Any objection?

9 MR. WALENSKY: I'd like to voir dire.

10 THE COURT: Go ahead.

11 VOIR DIRE

12 BY MR. WALENSKY:

13 Q Mr. Schoen, did you listen to this -- withdrawn.

14 How do you know that this is the recording? How  
15 can you identify this as the actual recording?

16 A As far as I know, that the call was received -- the  
17 call has the operator's number on it which gives me an idea  
18 that the operator is handling this and she conducted an  
19 interview. That is the best --

20 Q Do you know --

21 How do you know that it hasn't been changed in any  
22 way or that it is accurate?

23 A I don't know.

24 MR. WALENSKY: Thank you.

25 I object, your Honor.

Proceeding

1 THE COURT: Objection is overruled.

2 All right.

3 MS. CHU: Just one more question.

4 DIRECT EXAMINATION

5 BY MS. CHU: (Continued)

6 Q Mr. Schoen, from the records, can you tell me, what  
7 time did that call come in?

8 A There is no exact time that I have. The only thing  
9 I have is the timeframe. The call was received between 0020  
10 hours and through 0040 hours, which is military time, which  
11 is 20 minutes after midnight, between 20 and 40 minutes after  
12 midnight, twelve o'clock.

13 Q On November 29th, 2011?

14 A Yes.

15 MS. CHU: Thank you very much. I have nothing  
16 further.

17 MR. WALENSKY: Nothing further.

18 THE COURT: You may step down. Thank you.

19 (Whereupon, Richard Schoen stepped down from  
20 the witness stand and exited the courtroom.)

21 THE COURT: Come on up, please.

22 (Whereupon, a sidebar conference was held off  
23 the record.)

24 THE COURT: Call your next witness, please.

25 MS. CHU: The People call Shakeema Fortune.

Fortune - People - Direct/Ms. Chu

1 (Whereupon, there was a brief pause in the  
2 proceedings.)

3 COURT OFFICER: Ready for the witness?

4 THE COURT: Yes.

5 COURT OFFICER: Witness entering.

6 (Whereupon, Shakeema Fortune entered the  
7 courtroom and took the witness stand.)

8 THE CLERK: Raise your right hand, please.

9 Do you solemnly swear or affirm that the  
10 testimony that you are about to give will be the truth,  
11 the whole truth and nothing but the truth, so help you  
12 God?

13 THE WITNESS: Yes.

14 THE CLERK: Please state your name for the  
15 record.

16 THE WITNESS: Shakeema Fortune.

17 THE CLERK: Spell your first and last name.

18 THE WITNESS: Spell it?

19 THE CLERK: Yeah.

20 THE WITNESS: S-H-A-K-E-E-M-A.

21 THE CLERK: Last name.

22 THE WITNESS: F-O-R-T-U-N-E.

23 THE CLERK: Thank you. You can have a seat.

24 THE COURT: Just move up. Sit up close to the  
25 microphone and respond to the question by putting your

Fortune - People - Direct/Ms. Chu

1 mouth close to the microphone.

2 Proceed.

3 S H A K E E M A F O R T U N E, called as a witness by  
4 and on behalf of the People of the State of New  
5 York, after having been first duly sworn, was  
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. CHU:

9 Q Good afternoon, Ms. Fortune.

10 A Good afternoon.

11 Q What is your age?

12 A Twenty-nine.

13 Q And can you tell me, did you know someone by the  
14 name of Anthony Wilson?

15 A Yes, I did.

16 Q How did you know Mr. Wilson?

17 A He considered me as his sister.

18 Q So did you --

19 When did you first meet him?

20 A It was a long time. He used to baby-sit my kids  
21 for me.

22 Q And can you tell me, did you know where he lived  
23 back in November of 2012?

24 A Yes.

25 Q I'm sorry, November 2011.

Fortune - People - Direct/Ms. Chu

1 A Yes.

2 Q Where was he living?

3 A On Kosciuszko and Broadway.

4 Q Okay.

5 The cross street, was it near Bushwick Avenue at

6 all?

7 A Yes.

8 Q Can you tell me, had you ever been to his house

9 before?

10 A Yes.

11 Q And can you describe for me how he used to keep the

12 house?

13 A Very clean. He's a neat man.

14 Q Did you know, also, someone by the name of Matthew

15 Shepard?

16 A Yes.

17 Q How did you know him?

18 A He grew up around us in the neighborhood.

19 Q Now I want to direct your attention to around

20 November 20th, sometime before Thanksgiving, in the year

21 2011.

22 Did there come a time when you went to visit

23 Anthony Wilson?

24 A Yes. And I was asking him was he going out with us

25 that day.

Fortune - People - Direct/Ms. Chu

1 Q Okay.

2 Did you actually go into his apartment?

3 A Yes.

4 Q Can you tell me, was anyone else in the apartment  
5 with Mr. Wilson when you came to visit?

6 A Yes.

7 Q Who else was there?

8 A A young woman named Renee.

9 Q How did you know her name was Renee?

10 A That is what he had introduced me when I walked in,  
11 he said this is Renee I was talking about.

12 Q Okay.

13 Did he give you an indication as to what type of a  
14 relationship he had with her?

15 A Yeah, it was his girlfriend.

16 Q Now, did he say that in front of her, when he  
17 introduced you to her?

18 A Yes.

19 Q This is Renee, my girlfriend?

20 A Yes.

21 Q Can you tell me, where was Renee when you first  
22 walked in or while you were in the apartment?

23 A She was sitting in a brown single chair.

24 Q The single chair?

25 A Yes.

Fortune - People - Direct/Ms. Chu

1 Q Where was Mr. Wilson?

2 A On his bed.

3 Q Now, did you have an arrangement with Mr. Wilson to  
4 go out that night?

5 A Yes.

6 Q After you were in the apartment did there come a  
7 time when you asked him whether or not he was going to come  
8 with you?

9 A Yes, and she was bothered and said no, he's not  
10 going anywhere.

11 Q Now, once she said that, did you -- what did you  
12 do?

13 A I was kind of upset because he said he was going  
14 out with us, but I then left.

15 Q And the relationship that was had between the two  
16 of them, he had indicated that was his girlfriend?

17 A Right.

18 Q Had he spoken to you about her before the day that  
19 you were there in his apartment?

20 A Yeah, uh-huh.

21 Q He had?

22 A Yes.

23 Q And how did he refer to her as?

24 A He just -- like we had conversations, he asked  
25 me -- well, he was telling me something about her, like prior

Fortune - People - Direct/Ms. Chu

1 to when I came in.

2 MR. WALENSKY: I'm sorry, I missed something  
3 about what --

4 THE WITNESS: He was telling me like something  
5 about their relation before I came in, like prior to  
6 coming into the apartment.

7 Q Now, tell me, once you left the apartment, was  
8 Renee still in the apartment with him?

9 A Yeah.

10 Q And then where did you go?

11 A I went to the pool hall with my baby father. Me  
12 and him left.

13 Q Now, when was the next time you saw Anthony Wilson?

14 A I didn't. I was coming around, I was asking about  
15 him and I haven't seen him.

16 Q So you never saw him since that day?

17 A Since that day.

18 Q That was sometime before Thanksgiving of 2011?

19 A Yes.

20 MS. CHU: Okay.

21 Thank you very much. I have nothing further.

22 I'm sorry, if I can just have the photographs,  
23 People's 2 through 41.

24 (Whereupon, the exhibits were handed to  
25 counsel.)



Fortune - People - Direct/Ms. Chu

1 MS. CHU: If we can have the lights.

2 THE CLERK: The lights.

3 MS. CHU: Yes, the lights, otherwise you can't  
4 see the picture.

5 DIRECT EXAMINATION

6 BY MS. CHU: (Continued)

7 Q Taking a look at People's Number 3 in evidence.

8 (Whereupon, the exhibit was displayed.)

9 Q Ms. Fortune, can you take a look at that photograph  
10 and tell us, what did you recognize, if at all?

11 A Yes, that is his front door and his window.

12 Q Okay.

13 Can you tell me, you said you had been to this  
14 apartment before?

15 A Right.

16 Q That is where you went when you saw him just before  
17 Thanksgiving in 2011?

18 A Yes.

19 Q Okay.

20 Taking a look at People's 4 in evidence.

21 (Whereupon, the exhibit was displayed.)

22 Q Do you recognize that portion of his apartment?

23 A Yes.

24 Q Now, can you tell me, did you ever see his  
25 apartment in that condition before?

Fortune - People - Direct/Ms. Chu

1 A No.

2 Q And how many times had you been to that apartment?

3 A Well, a few times.

4 Q Okay.

5 Taking a look at People's 5 in evidence.

6 (Whereupon, the exhibit was displayed.)

7 Q Do you recognize that?

8 A The kitchen area, yes.

9 Q And is that how he had it at any time that you had  
10 been there?

11 A Uh-uh, never.

12 Q You have to answer out loud.

13 A Never.

14 Q I am just going to ask that you take a look at  
15 People's 7 in evidence.

16 (Whereupon, the exhibit was displayed.)

17 Q Do you recognize this photograph?

18 MR. WALENSKY: Objection.

19 THE COURT: Sustained.

20 Q I am asking, you had mentioned that when you  
21 went --

22 MR. WALENSKY: I ask it be removed.

23 THE COURT: Sustained.

24 MS. CHU: Your Honor, may we approach?

25 THE COURT: No.

Fortune - People - Direct/Cross

1 Q You had mentioned that there was...a brown single  
2 chair is it? That is what you called it?

3 A Yes.

4 Q Where was it in the apartment?

5 A It was like directly next to the bathroom, like  
6 maybe like on a single wall.

7 Q And can you tell me --

8 MS. CHU: Your Honor, if I can show this  
9 exhibit. It's to see if she sees it in the photograph.

10 THE COURT: Sustained.

11 Q You said it was right by the bathroom? Yes?

12 A Yes.

13 Q Did Mr. Wilson have a sofa other than that single  
14 chair in that apartment?

15 A No.

16 Q Okay.

17 Was that the chair that she was sitting in, the one  
18 right by the bathroom?

19 A Yes.

20 MS. CHU: Thank you very much. I have nothing  
21 further.

22 THE COURT: Cross.

23 CROSS-EXAMINATION

24 BY MR. WALENSKY:

25 Q Good afternoon, Ms. Fortune.

Fortune - People - Cross/Mr. Walensky

1 A Good afternoon.

2 Q Ms. Fortune, you said you were like brother and  
3 sister. How long did you know him?

4 A For about twelve, thirteen years.

5 Q Twelve to thirteen years.

6 He babysat your kids?

7 A Yes.

8 Q How old were your kids in 2011, November 2011?

9 A Well, my son was still small. He was about going  
10 on three, three.

11 Q The last couple of years, say from 2009 to 2011,  
12 did you -- did you see Mr. Wilson often?

13 A Yeah.

14 Q Did you see him once a week?

15 A I see him maybe four, five times a week.

16 Q And Mr. Wilson was a heavy drinker, wasn't he?

17 MS. CHU: Objection.

18 A Not that I --

19 THE COURT: Sustained.

20 MS. CHU: Objection.

21 MR. WALENSKY: Your Honor, may we have a  
22 sidebar? This is -- I think it's --

23 THE COURT: You got a question of the witness?

24 MR. WALENSKY: Yes.

25 THE COURT: Ask a question.

Fortune - People - Cross/Mr. Walensky

1 Q Did you ever drink with Mr. Wilson?

2 MS. CHU: Objection.

3 A No.

4 THE COURT: She said no.

5 Q Did you ever see him drunk?

6 A No.

7 Q Did you ever see him stoned?

8 A No.

9 MS. CHU: Objection.

10 THE COURT: She said no.

11 Q Never, okay.

12 He spoke to you about his personal life?

13 A No.

14 Q He didn't, but you're a close friend?

15 A Right.

16 Q Did he speak to you about any health issues he  
17 might have?

18 MS. CHU: Objection.

19 THE COURT: Sustained.

20 Q What did you talk about when you saw him?

21 MS. CHU: Objection. What's the relevance?

22 THE COURT: I'll allow it.

23 Q What did you talk about when you saw him?

24 A School, the kids, he was leaving, going to his  
25 mother house.

Fortune - People - Cross/Mr. Walensky

1 Q Did you talk about his child?

2 A Yeah, I seen his child a few times.

3 Q The infant?

4 A Yeah. He was mad when the baby mother left.

5 Q The baby's mother left?

6 A Yeah.

7 Q And took the baby with her?

8 A Yeah.

9 Q Now, you're saying that --

10 When you did talk, he talked to you about his  
11 personal relationships?

12 MS. CHU: Objection.

13 THE COURT: Just yes or no.

14 A No, not really.

15 Q Well, he told you that this young woman living with  
16 him was his girlfriend?

17 A When I walked in, he said this is my girlfriend. I  
18 asked to use the bathroom. I asked was he going with us, he  
19 told me no.

20 Q Okay.

21 So you met her that one time?

22 A That one time.

23 Q And how old was Anthony, if you know?

24 A Forty-something. Forty-something. I can't  
25 remember.

Fortune - People - Cross/Mr. Walensky

1 Q Early 40s?

2 A Yeah.

3 Q Do you know, did you see him during the month of  
4 October of 2011?

5 A Do I remember seeing him?

6 Q Yeah.

7 A Not that I can remember.

8 Q Did you see him when you were going out November of  
9 2011?

10 A We was going out May, we went out June.

11 Q That day you went over.

12 A It was rapid, we were going out.

13 Q That particular day, when was it?

14 A It was late at night, like nine, ten o'clock.

15 Q Late what night?

16 A The night we were going to go out but he stayed.

17 Q That's fine. I'm trying -- was it in October, was  
18 it in November?

19 A November.

20 Q Was it a week before Thanksgiving, two weeks before  
21 Thanksgiving?

22 A Yeah, two weeks before.

23 Q About two weeks before?

24 A Uh-huh.

25 THE COURT: That's yes or no. You gotta

Fortune - People - Cross/Mr. Walensky

1 answer yes or no.

2 THE WITNESS: Okay.

3 THE COURT: Go ahead.

4 Q Was it a weekend night?

5 A I can't remember.

6 Q Do you know if Anthony was on public assistance?

7 THE COURT: Objection sustained.

8 Q Do you know how Anthony made a living?

9 MS. CHU: Objection.

10 THE COURT: Sustained.

11 MR. WALENSKY: One moment.

12 (Whereupon, there was a brief pause in the  
13 proceedings.)

14 Q Where were you going that night, the night you were  
15 going out?

16 A To play pool.

17 Q To play pool?

18 A Yes.

19 Q Did Anthony play pool with you other times?

20 A Uh-huh.

21 THE COURT: Answer yes or no.

22 A Yes.

23 Q But he never brought --

24 A No.

25 Q Did he bring his baby's mother to play pool with



## Proceeding

1 you at any --

2 MS. CHU: Objection.

3 THE COURT: Sustained.

4 MR. WALENSKY: I have no further questions.

5 THE COURT: You may step down. Thank you.

6 (Whereupon, Shakeema Fortune stepped down from  
7 the witness stand and exited the courtroom.)

8 THE COURT: All right, ladies and gentlemen,  
9 at this time we are going to adjourn for the day.

10 Do not discuss the case amongst yourselves or  
11 with anyone else. Do not visit the place where the  
12 alleged crimes occurred. Have no contact with any  
13 parties involved, including the Court.

14 Again, do not resort to utilizing any digital  
15 electronic device for purpose of obtaining any  
16 information about this case or contacting anyone.

17 We'll resume tomorrow at ten o'clock.

18 Thank you very much.

19 Please be here on time.

20 Just leave your books on your seats.

21 (Whereupon, the Jury exited the courtroom.)

22 MR. WALENSKY: Your Honor?

23 THE COURT: Yes.

24 MR. WALENSKY: I believe that I ought to be  
25 allowed to go into certain personal aspects of the

## Proceeding

1 decedent's life, if there are people who know him very  
2 well and we have medical records which aren't in  
3 because of your prior ruling, but which I intend to  
4 pursue further through further research and perhaps  
5 through testimony that would make it relevant. But  
6 these records show that he had lost half his stomach  
7 due to alcohol abuse and people who know him well  
8 and see him regularly would know that he drinks a  
9 lot.

10 What makes it pertinent to this particular  
11 case is the fact that the night in question he had an  
12 alcohol level, at the time of death, so it was higher  
13 even before that, of .2.

14 So, his habits regarding drinking are  
15 important. I also am trying to establish whether he  
16 became aggressive if he drank or if not --

17 THE COURT: She said that she didn't. She  
18 answered the question.

19 MR. WALENSKY: Right.

20 THE COURT: She answered the questions. I  
21 don't know what you're objecting to.

22 MR. WALENSKY: I think it's making the medical  
23 records more relevant in terms of rebuttal.

24 THE COURT: Rebuttal of what?

25 MR. WALENSKY: Because she hasn't seen him

## Proceeding

1 drinking, here's somebody that had half his stomach  
2 removed, has known him for twelve or thirteen  
3 years --

4 THE COURT: It's not rebuttal, number one, all  
5 right.

6 MR. WALENSKY: Yes.

7 THE COURT: You made your argument regarding  
8 medical records. I still stand by my decision, all  
9 right.

10 MR. WALENSKY: Okay.

11 THE COURT: And the fact of the matter is in  
12 evidence is the fact that he had .2 and you can explore  
13 that in whatever fashion you wish. You're trying the  
14 case.

15 MR. WALENSKY: Thank you.

16 I do have another subpoena which I may or may  
17 not call, depends on whether it's pertinent, in the  
18 future.

19 (Whereupon, there was a brief pause in the  
20 proceedings.)

21 THE COURT: All right.

22 (Whereupon, the trial was adjourned to July 2,  
23 2014.)

24 \*\*\*\*\*  
25 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF  
THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS  
PROCEEDING.

*Marlin Cassidy*  
MARLIN CASSIDY, Senior Court Reporter

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF KINGS: CRIMINAL TERM: PART 2

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK,

5 -against-

6 ATARA WISDOM,

7 Defendant.

8 -----X

9 Supreme Courthouse  
10 320 Jay Street  
11 Brooklyn, New York 11201  
12 July 2, 2014

13 B E F O R E:

14 THE HONORABLE ALBERT TOMEI, JUSTICE  
15 (And a Jury)

16 A P P E A R A N C E S:

17 HON. KENNETH P. THOMPSON, ESQ.  
18 District Attorney - Kings County  
19 350 Jay Street  
20 Brooklyn, New York 11201  
21 BY: PHYLLIS CHU, ESQ.  
22 Assistant District Attorney

23 DAVID WALENSKY, ESQ.  
24 Attorney for Defendant  
25 910 Stuart Avenue  
Mamaroneck, New York  
BY: DAVID WALENSKY, ESQ.  
- and -  
JOSHUA POVILL, ESQ.

MARLIN CASSIDY  
Senior Court Reporter

## Proceeding

1 (Whereupon, the following took place in open  
2 court:)

3 THE CLERK: Come to order, Part 2 is now in  
4 session, the Honorable Albert Tomei presiding.

5 THE COURT: Who is the first witness?

6 MS. CHU: The phone rep and then the  
7 detective.

8 THE CLERK: This is calendar number one, case  
9 on trial, Indictment 6615 of 2012, People versus Atara  
10 Wisdom. Defendant is incarcerated and produced before  
11 the Court, present with her attorney.

12 Appearances are the same.

13 MS. CHU: Your Honor, I just have one matter  
14 that I would like to put on the record before we begin.

15 THE COURT: Go ahead.

16 MS. CHU: After preparing all my information  
17 for today, I realized, after looking over the hearing  
18 minutes, that there was a statement that was made by the  
19 defendant the following day after she was apprehended  
20 that was never litigated at the hearing. I mentioned it  
21 during my opening, and as did Mr. Walensky mentioned it  
22 during his opening as well, so I didn't know how the  
23 Court wanted to proceed.

24 THE COURT: What is the statement?

25 MS. CHU: The statement had to do with the

## Proceeding

1 fact that he asked her -- after he got out of the  
2 bathroom, she said she saw the victim on the bed and  
3 that she took the phone the keys, the cellphone.

4 THE COURT: She said this to who?

5 MS. CHU: To Detective Scandole.

6 MR. WALENSKY: It was 10:00 in the morning the  
7 next day, and I was going to try to make some hay out of  
8 it cross-examining the Officer, why didn't they take her  
9 to Central Booking.

10 THE COURT: This was never litigated?

11 MS. CHU: It was not.

12 I got distracted by the Judge when I was  
13 asking about the video, then I completely forgot to ask  
14 it.

15 THE COURT: Who's the Judge?

16 MS. CHU: It was Judge Marrus.

17 Usually, when you talk about the video, you  
18 then put it on, you let it play. He was like just go  
19 through the rest of your questions. It kind of threw me  
20 off.

21 I apologize, it was my fault I did not ask  
22 questions about those statements.

23 However, my argument is that he opened on it,  
24 I opened on it and I wasn't sure where he was going with  
25 this, but there is this issue that is outstanding.

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1 MR. WALENSKY: Well, --

2 THE COURT: Well...go ahead. Go ahead.

3 MR. WALENSKY: I mean, this was an error and  
4 it's not decided, and we opened and I think we both --  
5 the judge had said the statement has been decided in all  
6 respects but it really hadn't, so this was opened on in  
7 error and also --

8 THE COURT: Let me ask you a question.

9 What was the statement?

10 MS. CHU: The oral statement, the written  
11 statement that she signed and the videotape.

12 THE COURT: This statement that was not  
13 litigated was made when?

14 MS. CHU: After the video.

15 MR. WALENSKY: The next day.

16 THE COURT: Was notice given about it?

17 MS. CHU: Yes.

18 THE COURT: Notice was given?

19 MR. WALENSKY: Yes, notice was given.

20 THE COURT: What I can do, I can do a hearing  
21 now.

22 MS. CHU: I have the Detective right outside.

23 THE COURT: Yes, I can do that.

24 Why don't you just put on the phone rep then  
25 we'll do the hearing.

Proceeding

1 MS. CHU: Okay. Thank you.

2 THE COURT: Get the jury.

3 (Whereupon, there was a brief pause in the  
4 proceedings.)

5 THE COURT: Bring in the jury.

6 COURT OFFICER: Jury entering.

7 (Whereupon, the Jury entered the courtroom.)

8 THE CLERK: All jurors are present and seated.

9 Both sides waive the roll call?

10 MS. CHU: So waived.

11 MR. WALENSKY: Yes.

12 THE COURT: Call your next witness.

13 MS. CHU: People call Norman Ray Clark.

14 (Whereupon, there was a brief pause in the  
15 proceedings.)

16 COURT OFFICER: Witness entering.

17 (Whereupon, Norman Ray Clark entered the  
18 courtroom and took the witness stand.)

19 THE CLERK: Raise your right hand.

20 Do you solemnly swear or affirm that the  
21 testimony that you are about to give will be the truth,  
22 the whole truth and nothing but the truth, so help you  
23 God?

24 THE WITNESS: Yes.

25 THE CLERK: State your name for the record.



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1 THE WITNESS: Norman Ray Clark, III.

2 THE CLERK: Can you spell your first and last  
3 name?

4 THE WITNESS: N-O-R-M-A-N, C-L-A-R-K.

5 THE CLERK: Thank you.

6 THE COURT: Go ahead.

7 MS. CHU: Thank you.

8 N O R M A N R A Y C L A R K , called as a witness  
9 by and on behalf of the People of the State of New  
10 York, after having been first duly sworn, was  
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. CHU:

14 Q Good morning, Mr. Clark.

15 A Good morning.

16 Q Are you employed?

17 A Yes, I am.

18 Q By whom are you employed?

19 A I work for Sprint.

20 Q And is that the phone company?

21 A Yes, cellphone company.

22 Q What is your position at Sprint?

23 A I'm a records custodian.

24 Q What are your duties and responsibilities as a  
25 records custodian for Sprint?

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1 A I'm responsible for maintaining as well as  
2 retrieving different documents that are produced in response  
3 to court orders, search warrants and subpoenas as well as  
4 come to court to testify about those same documents and  
5 verify them.

6 Q Now, I just want to ask you some beginning  
7 questions about recordkeeping for Sprint.

8 A Sure.

9 Q Now, when someone purchases a phone, does Sprint  
10 maintain subscriber information for that purchaser?

11 A Yes, we do.

12 Q What is meant by "subscriber information?"

13 A Primarily it's the name and address, if given,  
14 contact information, as well as information about the  
15 services that we provide, such as telephone number, the phone  
16 they have, dates of service, those kinds of things.

17 Q Now, as a records custodian can you authenticate  
18 subscriber information of a Sprint customer?

19 A Yes, I can.

20 Q Now, as to billing, as a records custodian do you  
21 authenticate the phone records for the Sprint customers?

22 A Yes.

23 Q When I say -- I am talking about incoming and  
24 outgoing calls to a specific number.

25 A Yes.

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1 Q Now, when someone uses a Sprint phone, is a  
2 recording of the incoming and outgoing calls maintained by  
3 Sprint?

4 A We record the fact that there are calls coming in  
5 and going out but we don't record the actual call itself.

6 Q Okay.

7 Now, as a records custodian do you authenticate  
8 incoming and outgoing calls for Sprint customers?

9 A Yes.

10 Q Now, when a person purchases a Sprint service plan,  
11 does Sprint maintain the phone records and subscriber  
12 information in the ordinary course of business?

13 A Yes, we do.

14 Q Does it matter if the phone is provided by public  
15 assistance?

16 A No.

17 Q Are those records kept in the course of regularly  
18 conducted business activity?

19 A Yes, it is.

20 Q And is Sprint required to keep those records for a  
21 certain period of time?

22 A Yes, we are.

23 Q Are phone records made at the same time or shortly  
24 after the time period that a person actually purchases the  
25 service?

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1 A Yes.

2 Q And prior to testifying today did you have an  
3 opportunity to review phone records regarding an  
4 investigation into the death of a person by the name of  
5 Anthony Wilson?

6 A Yes, I did.

7 Q How many numbers were you asked to review?

8 A There were three primary numbers.

9 Q And can you tell me, what numbers were you asked to  
10 review?

11 A I don't recall three of them off the top of my  
12 head. If I saw them, I'd recognize them.

13 MS. CHU: All right, if I can just have this  
14 shown to the witness.

15 If I can have this deemed marked People's --

16 THE CLERK: 45.

17 MS. CHU: -- 45, 46 and 47.

18 (Whereupon, the Sprint records were marked as  
19 People's Exhibits 45 through 47 for identification.)

20 (Whereupon, the exhibits were shown to  
21 counsel.)

22 MR. WALENSKY: Officer, here.

23 THE COURT: Hats off, please.

24 (Whereupon, the exhibits were handed to the  
25 witness.)

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1 THE WITNESS: Thank you.

2 A Would you like me to state those three numbers now?

3 Q Yes, please.

4 A Okay.

5 They were (347) 793-1940, (347) 546-9337, and

6 (347) 231-3340.

7 Q Now, what information were you required to provide  
8 to us based on those three phone numbers?

9 A I was requested to provide subscriber information  
10 as well as call detail records, which would be incoming and  
11 outgoing phone calls and text message transactions.

12 Q Now, what you have in front of you, People's 45, 46  
13 and 47, are those the records that you provided to our  
14 office?

15 A Yes.

16 MS. CHU: At this time, your Honor, I would  
17 offer them into evidence as People's 45, 46 and 47.

18 MR. WALENSKY: No objection.

19 THE COURT: In evidence.

20 (Whereupon, the Sprint records were marked as  
21 People's Exhibits 45, 46 and 47 in evidence.)

22 Q Now, were you subsequently also asked to provide  
23 subscriber information for three more numbers?

24 A Yes.

25 MS. CHU: At this time, your Honor, if I can

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1 have the witness shown -- if we can have this deemed  
2 People's 48 for identification.

3 (Whereupon, the Sprint record was marked as  
4 People's Exhibit 48 for identification.)

5 (Whereupon, the exhibit was shown to counsel.)

6 (Whereupon, the exhibit was handed to the  
7 witness.)

8 THE WITNESS: Thank you.

9 Q Mr. Clark, taking a look at People's 48, can you  
10 tell me, do you recognize that?

11 A I do recognize it.

12 Q What is that?

13 A This is a series of subscriber records for Sprint  
14 phone numbers.

15 Q Was that requested by our office with regard to  
16 this case?

17 A Yes, it was.

18 Q Okay.

19 Can you tell me, what numbers were you asked for  
20 subscriber information for?

21 A (347) 231-8819, (347) 889-3277, and (347) 830-3060.

22 THE COURT: What is the last one?

23 THE WITNESS: (347) 830-3060.

24 Q Okay.

25 Now, going back to -- I'm sorry.

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1 Are those the records that you provided to us based  
2 upon our request for subscriber information for those three  
3 numbers?

4 A Yes.

5 MS. CHU: At this time, your Honor, I would  
6 offer that into evidence as People's 48.

7 MR. WALENSKY: No objection.

8 THE COURT: All right, in evidence.

9 (Whereupon, the Sprint record was marked as  
10 People's Exhibit 48 in evidence.)

11 Q Now, Mr. Clark, if you can just take a look at the  
12 first one, People's 45 in evidence.

13 COURT OFFICER: The first one on top.

14 A Okay.

15 Q What information, again, did you provide to us for  
16 that number?

17 A I provided subscriber information as well as  
18 accompanying call detail.

19 Q Can you tell me what the subscriber information for  
20 that number --

21 Can you just tell us what the number was then tell  
22 us --

23 THE COURT: What is the number?

24 Q -- who the subscriber was?

25 THE WITNESS: (347) 793-1940.

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1 THE COURT: 793-1...

2 A 1940.

3 Subscribed to Anthony Wilson.

4 Q Okay.

5 Can you tell me, are those records kept in the  
6 normal course of business?

7 A Yes.

8 Q And were those records made at or near the time of  
9 the actual occurrence?

10 A Yes.

11 Q Meaning when they made the phone calls?

12 A Yes.

13 Q Now, when a person purchases a phone from your  
14 company, can you tell me, are they -- I'm sorry. Withdraw  
15 that question.

16 You said that being on public assistance does  
17 not -- if the phone is gotten through public assistance that  
18 would not affect what your records are?

19 A Well, it doesn't affect in the sense that however  
20 the means they get it, that we still record the information  
21 that is provided to us for opening the account.

22 Q Can you tell me, what type of service did Mr.  
23 Wilson have for that phone ending 1940?

24 A It was a prepaid phone service through Virgin  
25 Mobile.



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1 Q And "prepaid phone service," what does that mean?

2 A Well, as opposed to receiving a monthly bill after  
3 making the phone calls, this is a service where monies are  
4 provided upfront and you can use the phone until the monies  
5 then run out at which point in time the phone call activity  
6 for outgoing calls cannot happen until new monies have been  
7 added.

8 Q Now, with prepaid phones is there a requirement  
9 that the person show I.D. when they are purchasing a prepaid  
10 phone?

11 A There is not a requirement though it is suggested  
12 since to be able to put money on to the account you have to  
13 verify your information, so you recommend that someone put  
14 something down that they are going to easily recognize such  
15 as their name and their address, but it's not required.

16 Q Okay.

17 You said that --

18 What type of plan did Mr. Wilson have on this  
19 phone?

20 A It was a prepaid.

21 Q So did that enable him to only make voice calls or  
22 can he also text?

23 A It was for voice and for text message.

24 Q Okay.

25 Now I just want to give you some scenarios, if you

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1 can just tell me whether or not that would affect your  
2 recordkeeping at your company.

3 If someone were to -- I'm sorry.

4 If someone were making an outgoing call, would  
5 every outgoing call be recorded in your records?

6 A Yes.

7 Q Now, what happens if the person calls someone and  
8 that person doesn't pick up?

9 A It still makes a record of it.

10 Q Now, is there any way to tell whether or not  
11 someone actually picked up the phone and there was a  
12 conversation versus it goes to voicemail on the other  
13 person's phone?

14 A Not easily on outgoing calls. We do know a couple  
15 of things, that generally 25 seconds is how long it takes  
16 for a phone to ring four times, so even on outgoing calls, if  
17 it's around 25 seconds, then we can't be sure at all. If  
18 it's longer than 25 seconds but under a minute-and-a-half,  
19 then it could still have gone to someone's voicemail and  
20 that could be a time for the greeting and leave a message,  
21 as an example. Anything over two minutes you would assume  
22 probably had to have some type of open line. But even with  
23 all the circumstances, we can't say what was being said or  
24 if there was even conversation at all. So, outgoing calls  
25 are a little bit difficult to determine with any precision.

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1 Q What about incoming calls?

2 A They're easier. On an incoming call, if it goes to  
3 voicemail, our records indicate it was answered by voicemail.  
4 And if it doesn't show an answer by voicemail and it's beyond  
5 the 25 seconds, we can assume that there had been a  
6 connection with the person picking up in some way.

7 Q Now, what happens if the phone, your subscriber's  
8 phone, rings and the caller who's calling them hangs up,  
9 would that still be recorded in your records?

10 A Yes.

11 Q Now, is there anytime that any calls that are made  
12 by that phone are not recorded at all?

13 A All outgoing calls, as long as they reach the  
14 network, meaning they connect to a cell tower, will be  
15 recorded, as well as any incoming call to the phone. Even if  
16 the phone doesn't ring but the network receives it, it will  
17 also be recorded since it at least made it to the network.  
18 Pretty much you will see the activity, whether successful or  
19 not, is recorded on our system.

20 Q What happens if the phone is off?

21 A Then it would still be a phone call coming in and  
22 it would immediately be transferred to voicemail.

23 Q You said this phone was a prepaid phone?

24 A Yes.

25 Q What happens if they ran out of minutes?

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1 A Well, if you are out of minutes, you would see a  
2 period of time where there would be no outgoing activity but  
3 you continue to see incoming activity.

4 MS. CHU: Now, if I can just have this deemed  
5 People's 49A and B.

6 (Whereupon, the blowup of Sprint records were  
7 marked as People's Exhibit 49A and 49B for  
8 identification.)

9 THE COURT: What is this, 40-what?

10 MS. CHU: 49A and B.

11 Q Mr. Clark, taking a look at People's 49A, can you  
12 tell me, do you recognize that?

13 A I do.

14 Q What is that?

15 A It is a blowup of page 7 of 11 of the call records  
16 that we've been discussing.

17 Q Okay.

18 Can you tell me, that's contained -- this is just a  
19 blowup of what is contained in People's 45?

20 A Yes, it's a blowup of one of those pages in its  
21 entirety.

22 Q Can you look now at People's 49B for  
23 identification.

24 Do you recognize that?

25 A I do.

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1 Q What is that?

2 A That is also a blowup of another page from the same  
3 record.

4 Q Of 1940, the phone number ending in 1940?

5 A Yes.

6 Q What page is the blowup on this?

7 A That's page 8.

8 Q Okay.

9 Now, those are exact duplicates of what you have in  
10 evidence as People's 45?

11 A Yes.

12 MS. CHU: At this time, your Honor, I would  
13 offer it into evidence as People's 49A and B.

14 THE COURT: Any objection?

15 MR. WALENSKY: No.

16 THE COURT: In evidence.

17 (Whereupon, the blowup of Sprint records were  
18 marked as People's Exhibits 49A and 49B in evidence.)

19 MS. CHU: If I can just have 49A posted on the  
20 board, I mean on the easel, please.

21 (Whereupon, the exhibit was posted.)

22 MS. CHU: Your Honor, may the witness approach  
23 the exhibit?

24 THE COURT: You may step down and approach the  
25 exhibit.

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1 (Whereupon, the witness stepped down and  
2 approached the exhibit.)

3 Q Okay.

4 Mr. Clark, if you could, can you just tell us,  
5 across the center of the diagram it says -- what does it  
6 say?

7 A It says "call records for PT," that's personal  
8 telephone, (347) 793-1940.

9 Q Okay.

10 Now, each of the columns in that diagram are  
11 labeled on the top. Can you tell us, the first column, what  
12 is that?

13 A First column is calling number. This is the phone  
14 number initiating or making the phone call.

15 Q Okay.

16 What's the next column?

17 A The next is called number. This is the number  
18 that's ultimately receiving the phone call. Or in the case  
19 of an incoming call that went to voicemail, as we see here on  
20 the fourth line down, there's a 1-1 prior to that, that means  
21 the number ending in 1940, the voicemail answered as opposed  
22 to a person picking up.

23 Q Okay.

24 Now, can you tell us, for the third column what is  
25 the heading?

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1 A It's dialed digits, and this is what is dialed as  
2 captured by our system to make the phone call complete.

3 Q So is that --

4 If it has dialed digits, that means that's the  
5 person who's initiating the call?

6 A It's what the person who's initiating the call,  
7 what they dialed.

8 And as you can see here, sometimes you have  
9 letters. Letters represent different keys. Like for  
10 instance, the B is the star key, the letter C indicates the  
11 pound key was hit.

12 Q What does that mean 6C?

13 A It means they dialed six pound on their phone,  
14 which, depending on the circumstances, may be trying to  
15 retrieve information or it may have been a misdial since you  
16 see it was a two-second duration and no one answered, didn't  
17 go to that. So that just indicates how the network received  
18 it and probably hung up saying that is incomplete or a pocket  
19 dial or something of those sorts.

20 Q What is the next column?

21 A Next is MR then the number sign. That stands for  
22 mobile roll. In other words, the roll of the phone ending in  
23 1940 in the call there is outbound, meaning being made by  
24 that number, inbound being received by that number or we can  
25 have it routed, and a routed call means one of two things,

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1 routed being going to voicemail or a routed call can be part  
2 of an incoming call process.

3 In the Greater New York City area, as you can  
4 imagine, there are a lot of people, a lot of phones and  
5 there's just some pieces of equipment that do nothing more  
6 than pay attention to where those phones are. If you change  
7 a couple of blocks, you can change from one area's control to  
8 another.

9 So, on an inbound call, especially if you are  
10 outside of your area that you normally are associated with,  
11 it may have to route from the locator to the area where  
12 you're at. So, you can tell if it's voicemail by what's 1-1  
13 and if it's a routed call not going to the voicemail you  
14 won't see that then in that line.

15 Q So a routed call only occurs if it either, you  
16 said, goes to voicemail or someone's calling you and it's  
17 routed through another number?

18 A That is correct. Routed through a temporary local  
19 dialed number. That's just how the network makes phone calls  
20 happen behind the scene.

21 Q Only pertains to incoming calls?

22 A Yes.

23 Q The next column, fifth column, what is the  
24 heading?

25 A That's start date, and makes sense, end date as



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1 well. The next column, this is the month, day and year, then  
2 the hour, minute and second in a 24-hour format for when the  
3 phone call begins and ends. Let's say, the 24-hour format at  
4 midnight it's saying 12-something, it will say 0, then  
5 however many minutes. When you get to one o'clock in the  
6 afternoon it -- instead of 1:00 P.M., it will say 13, go on  
7 through the hours till 23.

8 It should be noted, too, that we are talking about  
9 the times there for voice calls. In other words, actual  
10 phone calls themselves, they will be local to where the call  
11 is taking place. So, New York City, that would be Eastern  
12 time. But if we see text messages, and how to identify that,  
13 I will show you, text messages are always recorded in Central  
14 time so you have to add an hour to that time stamp to  
15 understand what time it would be in Eastern time.

16 Q So the actual times and dates that are indicated on  
17 the record that you provided, they don't account for the  
18 Central standard time if it was texted?

19 A Correct, they're showing order based on the times  
20 listed but you have to do that mental math to get to the  
21 difference and understand the chronology.

22 Q Okay.

23 Now, the next column, what is that?

24 A That is duration, and that's in seconds. That is  
25 how many seconds the network had the phone call.

Clark - People - Direct/Ms. Chu

1 Q Okay.

2 What is the last column?

3 A The last column is repoll, that is R-E-P-O-L-L.

4 That is the term we use to refer to a switch. A switch is a  
5 simple computer that controls communications. There are  
6 switches assigned to voice communication, there are switches  
7 assigned to text messages. The best way to know if it's a  
8 text message, anything that is 292 to 298 inclusive, and 506  
9 to 533, also inclusive, are text messaging. Any number  
10 outside of those ranges, such as the 678, the 271 that you  
11 see here, those are all going to be for voice calls. Once  
12 again, it's not text message, it will be a voice call.

13 Q Okay.

14 Now, you said this is page 7 of Mr. Wilson's phone  
15 records?

16 A Yes.

17 Q Okay.

18 Can you tell me --

19 I want to direct your attention to the records at  
20 0027 on November 29th, 2011.

21 Did Mr. Wilson's phone have a call?

22 THE COURT: What's the O-O what?

23 MS. CHU: 0027.

24 A On the 29th?

25 Q Yes.

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1 A I see 37 but not 27.

2 Q I'm sorry.

3 0037.

4 A Yes, there's actually two calls at 0037.

5 Q Can you tell me, what is the first call?

6 A They dialed the number 8 for the first call.

7 Q What does that mean?

8 A Once again, they dialed number 8 then pressed  
9 "send." There's a chance it could have been a misdial or a  
10 pocket dial of some sort because it shows a two-second  
11 duration, which wouldn't indicate a completed call.

12 Q What's the next number that's dialed by Mr.  
13 Wilson's phone?

14 A 911.

15 Q Can you tell me, what time did that phone call --  
16 what time was that phone call made?

17 A It was at 12:37 A.M. and 36 seconds.

18 Q Was that a voice call?

19 A It was.

20 Q And how long was the call?

21 A It was a total of 26 seconds.

22 THE COURT: 20-what?

23 THE WITNESS: Twenty-six seconds.

24 Q And the reason why you know it is a voice call is  
25 because of the repoll number?

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1 A Yes, with it being 271, that would show that it's a  
2 voice call. And the fact that it dialed 911 then routed over  
3 to an actual number would also indicate a voice call versus a  
4 text message.

5 Q Now, what's the next time that Mr. Wilson's phone  
6 was used?

7 A At 12:57 A.M. and 14 seconds.

8 Q Can you tell me, was it an outgoing or incoming  
9 call?

10 A It was an outgoing call.

11 THE COURT: What time, 12:57?

12 THE WITNESS: Yes.

13 Q Can you tell me, how long did that phone call  
14 last?

15 A Forty seconds.

16 Q Now, can you tell me, what -- were you able to  
17 obtain what number called -- was called by Mr. Wilson's phone  
18 at 12:57?

19 A Yes. That was (347) 231-8819.

20 Q Now, I had asked you --

21 If you can, take a look at People's 40.

22 THE COURT: I'm sorry, the receiver number was  
23 what?

24 A (347) 231-8819.

25 THE COURT: Okay.

Clark - People - Direct/Ms. Chu

1 Q If you can take a look at People's 48.

2 Was that number one of the subscriber information  
3 numbers that we requested from you?

4 A Yes.

5 Q Can you tell me, what was the subscriber for that  
6 phone number?

7 A It was subscribed to a Paul Gerard.

8 Q Did Paul Gerard give an address when he obtained  
9 that phone?

10 A Yes. The most recent address that we had, you  
11 know, for that date range was at 561 East 89th Street in  
12 Brooklyn, New York.

13 Q Can you tell me, what was the next call that was --  
14 I'm sorry.

15 What time was Mr. Wilson's phone used next?

16 A It was next used at 12:59 A.M. and 31 seconds.

17 Q Okay.

18 Can you tell me, was that phone call incoming or  
19 outgoing?

20 A It was outgoing as well.

21 Q Can you tell me what number was dialed by Mr.  
22 Wilson's phone?

23 A (347) 889-3277.

24 THE COURT: 889-2377?

25 THE WITNESS: 3277.

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1 THE COURT: Oh, 3277.

2 Q That number that you mentioned, was that included  
3 in the subscriber information that we requested from you in  
4 People's 48?

5 A Yes.

6 Q Can you tell me, who was the subscriber for that  
7 phone number?

8 A Layton Bora (phonetic).

9 Q Can you tell me, was there a contact address given  
10 for Layton Bora?

11 A Yes. 224 Grafton Street, Brooklyn, New York.

12 Q Now, how long was that phone call?

13 A That phone call was for 58 seconds.

14 Q And are you able to tell whether that was a voice  
15 call?

16 A It is a voice call.

17 Q Okay.

18 Can you tell me, what's the next time that Mr.  
19 Wilson's phone was used?

20 A Next time was at 1:00 A.M. and 32 seconds.

21 Q And what phone number was called or what phone  
22 number -- I'm sorry.

23 Was it incoming or outgoing?

24 A It was outgoing.

25 Q What number was called?

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1 A The Layton Bora phone was called again.

2 Q Okay.

3 Now, can you tell me, after the 911 call on  
4 November 29th, 2011, at 12:37 in the morning, until about  
5 5:00 in the morning, can you tell me what were -- was Mr.  
6 Wilson's phone used for incoming or outgoing?

7 THE COURT: Wait a minute, start all over  
8 again.

9 What is your question?

10 Q From November 29th, 2011 at approximately right  
11 after the 911 call, can you tell me what type of calls were  
12 made by that phone?

13 MR. WALENSKY: Objection.

14 THE COURT: Sustained.

15 Q Okay.

16 Just taking a look at the records on page 7, the  
17 one you have up on the board, the numbers in the MR column,  
18 after the 911 call, for the remainder of that page, what is  
19 the direction of the phone calls that were had -- had by that  
20 phone?

21 A They show all outbound.

22 Q All outbound?

23 A Yes.

24 Q Can you tell me, did you review the call pattern  
25 before and after the 911 call was made on Mr. Wilson's

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1 phone?

2 MR. WALENSKY: Objection.

3 What is "call pattern?" It hasn't been  
4 explained, what it is.

5 THE COURT: Do you understand the question?

6 A I think you're asking did I look at the phone  
7 numbers that were in communication with the phone prior to  
8 the 911 and then after that, correct?

9 Q That's correct.

10 A Okay.

11 THE COURT: Overruled.

12 A Yes, I did look at that pattern.

13 Q What did you find when you looked at the pattern?

14 A There were different numbers that were being called  
15 after the 911 call as to prior.

16 Q Okay.

17 And you said that for the remainder of page 7 on  
18 the records for Mr. Wilson's telephone, that after -- after  
19 the 911 call they were all outgoing calls?

20 A That's correct.

21 Q Now, before the 911 call, did Mr. Wilson's phone  
22 ever call the phone that you -- the phone records that you  
23 gave us ending in 9337? I believe if you look --

24 THE COURT: Before the 911 call...what was the  
25 question?



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1 Q Prior to the 911 call on November 29th, 2011 at  
2 12:37 A.M. did Mr. Wilson's phone call the number  
3 (347) 546-9337?

4 THE COURT: 347...what?

5 MS. CHU: 546-9337.

6 Q I ask you to look at People's 46 for that answer.

7 A Sure.

8 (Whereupon, the witness resumed the witness  
9 stand.)

10 THE COURT: You want to know if that number  
11 was called prior to?

12 MR. WALENSKY: Objection.

13 THE COURT: Overruled.

14 MS. CHU: Yes.

15 THE COURT: You are objecting to what I'm  
16 saying?

17 MR. WALENSKY: No, to the question.

18 THE COURT: Overruled.

19 A Prior to that, yes, those two numbers had been in  
20 communication.

21 Q Okay.

22 Can you tell me what date were they in  
23 communication most recently before the 9-11 call?

24 THE COURT: Repeat the question again.

25 What is the question, again?

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1 MS. CHU: I'm sorry.

2 Q When was the most recent phone call from that  
3 number ending in 9337?

4 THE COURT: I don't understand the question.  
5 What do you mean?

6 Q Do you understand the question, Mr. Clark?

7 A The most recent time that the phone number  
8 (347) 793-1940 was in communication with (347) 546-9337?

9 Q Yes.

10 A Okay.

11 The most recent --

12 MR. WALENSKY: Objection.

13 A -- phone conversation --

14 MR. WALENSKY: Objection as to when the most  
15 recent phone number. There is no time period.

16 Q With relation to just before the 911 call.

17 THE COURT: Before the 911 call, the number  
18 (347) 546-9377 was called, right?

19 THE WITNESS: Yes.

20 THE COURT: When?

21 MS. CHU: It's 9337.

22 THE COURT: It's not 9377.

23 This number was called. When was it called  
24 last prior to the 911 call?

25 THE WITNESS: The last phone call to that

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1 number was at 8:16 A.M. on the 28th of November.

2 THE COURT: 8:16?

3 THE WITNESS: Uh-huh.

4 Though there was a text message to that number  
5 as well that records it at 11:41 A.M. Central time,  
6 which would be 12:41 P.M. Eastern time.

7 Q Okay.

8 A Also on the same date.

9 Q There was a phone call, a voice call and text  
10 message that were sent at 8:00 A.M. or around 8:15 in the  
11 morning on 11/28 of 2011, then a subsequent text message at a  
12 little after noon?

13 A Yes.

14 Q That same day?

15 A That is correct.

16 Q And then are there any more communications between  
17 those two phones, up to the 911 call?

18 A None that I see.

19 Q Can you tell me, were you able to provide me with  
20 the subscriber information for that number ending in 9337?

21 A Yes.

22 Q Can you tell me, who was the subscriber for that  
23 phone number?

24 A Yes, that's the phone number that's listed as  
25 People's Exhibit 46 in evidence.

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1 THE COURT: That is the 9337?

2 THE WITNESS: Yes.

3 THE COURT: Who's the subscriber.

4 THE WITNESS: That was the subscriber of Atara  
5 Wisdom.

6 Q Now, I want you to go back to Mr. Wilson's records,  
7 if you would. And can you tell me, at approximately 5:00  
8 A.M. was his phone used?

9 THE COURT: Mr. Wilson's records?

10 THE WITNESS: Yes.

11 A Yes.

12 MS. CHU: If I can have People's 49B posted,  
13 please.

14 (Whereupon, the exhibit was posted.)

15 THE COURT: Now we are on Wilson's records?

16 MS. CHU: Yes, we are back on Wilson's  
17 records.

18 THE COURT: You want to know what date,  
19 November 29th?

20 MS. CHU: Correct, at approximately 5:00 A.M.

21 THE COURT: A call was made?

22 THE WITNESS: Yes.

23 THE COURT: Outgoing, incoming?

24 THE WITNESS: Outgoing.

25 Q Can you tell me, taking a look at People's 49B,

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1 what page of the records is it that you have and what page  
2 is it on the call detail that you provided in People's 46?

3 A It's --

4 Q I'm sorry, 45.

5 A It's page 8.

6 Q Now, can you just take a look -- step down to the  
7 diagram.

8 (Whereupon, the witness stepped down from the  
9 witness stand and approached the exhibit.)

10 Q Just show us where that five o'clock call would  
11 have been.

12 A (Indicating). It's there, about halfway down the  
13 page, a phone call at 5:00 A.M. and 53 seconds.

14 Q Okay.

15 Was that an incoming or outgoing call?

16 A It was an outgoing call.

17 Q Now, can you tell me, did that -- was there anymore  
18 communications between Mr. Wilson's phone and the phone  
19 number ending in 3340?

20 A Yes, there is additional communications between  
21 those numbers.

22 Q What would that be?

23 A We see at 5:14 A.M., two different calls from  
24 (347) 231-3340, and then at 5:14 another call from Mr.  
25 Wilson's phone (347) 231-3340.

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1 Q What kind of calls were they?

2 A The first two show routed calls and the second  
3 shows it successfully going to voicemail. The first one does  
4 not indicate if it went to voicemail, though it does say  
5 routed. The third one is an outbound call to that number.

6 Q And is there any indication whether or not that is  
7 a voice call or a text message?

8 A It shows that it is a voice call.

9 Q Now, can you tell me, were you able to provide me  
10 with the subscriber information for that number ending in  
11 3340?

12 A Yes.

13 Q I would like to direct you to People's 47 in  
14 evidence.

15 (Whereupon, the witness resumed the witness  
16 stand.)

17 A Okay.

18 Q Can you tell me, who was the subscriber for that  
19 phone number ending in 3340?

20 A It's listed as Theo Theo.

21 Q Okay.

22 THE COURT: Theo?

23 THE WITNESS: T-H-E-O, then repeated,

24 T-H-E-O.

25 Q T, as in Tom?

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1 A That's correct.

2 Q Can you tell me, was there any other information  
3 provided with your subscriber information for any other  
4 person?

5 A Yes. In addition to the number on the same record  
6 here, we also provided for a phone number of (347) 314-2257  
7 that is connected with the (347) 231-3340 being that that  
8 number ending in 3340 was the account contact number for the  
9 second number.

10 Q So, who was the subscriber for that second number  
11 you just mentioned?

12 A Matthew Shepard.

13 Q So Matthew Shepard was somehow affiliated with the  
14 number ending in 3340?

15 A Well, Matthew Shepard, in the second account,  
16 listed that number, 3340 being another Sprint phone, as the  
17 account contact number or the number to call as a secondary  
18 number.

19 Q Okay.

20 THE COURT: Explain that again. Matthew  
21 Shepard was what?

22 THE WITNESS: Well, on all our accounts we  
23 require that they provide an additional method to get  
24 ahold of you in the event that we need to, you know,  
25 there's a problem, things like that, need to verify, and

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1 so the account contact number that was provided was  
2 (347) 231-3340, which goes back to another Sprint  
3 prepaid phone with the name Theo Theo.

4 Q With a prepaid phone are you required to give I.D.  
5 at all to tell who you are?

6 A Once again, no.

7 Q So Theo Theo could be someone giving a nickname or  
8 whatever?

9 A Potentially. In the case of that as well, he  
10 didn't also provide an address, it's a generic P.O. Box that  
11 we use anytime that no address is given. So, very little  
12 information was given.

13 THE COURT: What was Shepard's connection to  
14 231-3340?

15 THE WITNESS: He provided 3340 as his contact  
16 phone number, his non-cellular contact phone number,  
17 which happens to be a cellular.

18 Q The phone number associated with Mr. Shepard, what  
19 was the phone number that gave you the contact number of the  
20 3340?

21 A (347) 314-2257.

22 THE COURT: So if you couldn't get 3340, if  
23 you couldn't get 3340, you could contact Shepard through  
24 (347) 314-2577?

25 THE WITNESS: It's actually the opposite.



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1 THE COURT: It's the opposite?

2 THE WITNESS: If they couldn't get ahold of  
3 him.

4 THE COURT: Then they're supposed to contact  
5 him at 3340?

6 THE WITNESS: That's correct.

7 THE COURT: Go ahead.

8 (347) 314-2577, the subscriber was whom?

9 THE WITNESS: Matthew Shepard.

10 THE COURT: 3340 was Theo Theo?

11 THE WITNESS: That's correct.

12 Q Now, can you tell me, the phone call that was made  
13 at 5:00 A.M. to 3340, how long was that phone call?

14 A The one at 5:00 A.M. was 131 seconds.

15 Q Would you be able to determine whether or not that  
16 was an actual voice call?

17 A Yes, it is a voice call.

18 Q And the next time that those two numbers are in  
19 communication?

20 THE COURT: Wait.

21 At 5:00 A.M. there was an out call made from  
22 Wilson's number, is that right?

23 THE WITNESS: Yes.

24 THE COURT: And it went to what number?

25 THE WITNESS: (347) 231-3340.

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1 Q That's the number associated with Matthew  
2 Shepard?

3 A Yes.

4 THE COURT: Okay.

5 Q Now, at 5:14 A.M. on 11/29/2011 was there any  
6 communication between Mr. Wilson's phone and the phone  
7 associated with Mr. Shepard?

8 A There is an attempted voicemail call, but there's  
9 the outbound call from the Wilson phone to the Shepard phone  
10 at 5:14 A.M. 58 seconds for a total of 33 seconds.

11 Q So Mr. Shepard was trying to contact Mr. Wilson's  
12 phone, then Mr. Wilson's phone calls him back?

13 A Yes.

14 Q Thank you very much.

15 Now, the one you said that a total of 30 -- how  
16 many seconds was that?

17 A Thirty-three.

18 Q So what does that mean?

19 A Being that it's 33 seconds and a voice call, it  
20 went beyond the time of the 25 seconds required for four  
21 rings, so a connection of some sort had to have happened.  
22 Whether that be to the voicemail or not, I'd have to look at  
23 the records for 3340.

24 Q Okay.

25 So you are unable to tell whether it was a voice

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1 call?

2 A It is a voice call, not text message. I can't  
3 determine if it was answered by voicemail or answered by an  
4 individual.

5 Q Okay.

6 A Not unless I look at the other records. Would you  
7 like me to do that?

8 Q Yes, please. If you can take a look at the call  
9 detail for Mr. Shepard's associated phone.

10 A It shows on the records here that it was received  
11 as a 23-second call and does not indicate that it went to  
12 voicemail, so that would indicate that, you know, either they  
13 answered or, you know, it was hung up prior to answering, but  
14 being that the other one was longer than 33 seconds, more  
15 than likely it was communication.

16 THE COURT: Basically you're saying, or your  
17 testimony reflects the fact that on November 29th at  
18 about 5:00 A.M., through November 29th 5:17 A.M. there  
19 was a connection between Mr. Wilson's cellphone number  
20 and Matthew Shepard's cell, is that correct?

21 THE WITNESS: At least two times, yes.

22 Q Thank you.

23 Now, I'd like you to look at People's 46.

24 A Okay.

25 MS. CHU: I am going to have this deemed

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1 People's 50 for identification.

2 (Whereupon, the exhibit was shown to counsel.)

3 (Whereupon, the blowup of phone record was  
4 marked as People's Exhibit 50 for identification.)

5 THE COURT: What is this, People's 50?

6 MS. CHU: Yes.

7 (Whereupon, the exhibit was shown to the  
8 witness.)

9 A Okay.

10 Q Can you tell me, do you recognize that?

11 A I do.

12 Q What do you recognize that to be?

13 A That is one page, specifically page 35 of the phone  
14 records that are found in People's 46.

15 Q Whose -- I'm sorry.

16 Can you tell us who the subscriber is for that  
17 phone number?

18 A Yes. That's the Atara Wisdom phone.

19 Q Okay.

20 What page of the record is that a blowup of?

21 A Page 35.

22 Q Okay.

23 Is that an exact duplication, just blown up, of  
24 what is in evidence already as People's 46?

25 A Yes, it is.

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1 MS. CHU: At this time, your Honor, People  
2 offer that into evidence as People's 50.

3 MR. WALENSKY: No objection.

4 THE COURT: It's in evidence.

5 (Whereupon, the blowup of phone record was  
6 marked as People's Exhibit 50 in evidence.)

7 MS. CHU: If I can have that posted, please.

8 (Whereupon, the exhibit was posted.)

9 Q Mr. Clark, if you can just step down.

10 MS. CHU: Your Honor, may he approach the  
11 exhibit?

12 THE COURT: He may.

13 (Whereupon, the witness stepped down from the  
14 witness stand and approached the exhibit.)

15 Q Mr. Clark, can you just tell us, you said it's page  
16 35 of the records, right?

17 A Yes.

18 Q What dates are included in that page?

19 A It starts on the 27th of November 2011 and ends on  
20 the 29th of November 2011.

21 Q Can you tell me, what were the last -- I'm sorry.

22 Were there any communications between Mr. Wilson's  
23 phone and Ms. Wisdom's phone on November 28th of 2011?

24 A Yes.

25 Q Can you tell me, what time were those calls?

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1 A We see that there was a phone call that happened on  
2 the records here at 8:17 A.M. on the 28th.

3 Q Okay.

4 Can you tell me, what type of call was that?

5 A It was an inbound call.

6 Q And who -- I'm sorry.

7 Inbound call meaning?

8 A Meaning the Wilson phone called the Wisdom phone.

9 Q Okay.

10 How long was that phone call?

11 A Fifty-six seconds.

12 THE COURT: Inbound call meaning that who  
13 called, Wilson called?

14 THE WITNESS: The Atara Wisdom number.

15 THE COURT: I have a quick question.

16 Atara Wisdom. So Wilson called Wisdom?

17 THE WITNESS: Yes.

18 Q There are two entries for Mr. Wilson's phone on  
19 those records, one at 8:17:00 and one at 8:17:06. Now, what  
20 does that mean?

21 A If you recall, I said that sometimes an inbound  
22 call has to use a locator service, and that's what you see  
23 here. The first one showing routed, indicates that the  
24 locator, which happens to be 678, which was referred to as a  
25 Manhattan gateway, it's part of their job, besides directing

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1 phone calls, to pay attention to where the cellphones are on  
2 the network, especially on the western half of the city. And  
3 there's one for the eastern half, which covers mostly Long  
4 Island. But it routed the call then to the -- where the  
5 actual phone was at, which is the second line. So, for all  
6 intents and purposes, the second line, and the inbound call  
7 is the actual phone call. The previous line is just showing  
8 the process of using the locator.

9 Q So it's not actually two times that Mr. Wilson's  
10 phone called Ms. Wisdom's phone?

11 A No, it's still just one time.

12 Q Is that true whenever you see a routed call and  
13 then an inbound?

14 A Yes, especially if the time stamp between the two  
15 of them is a few seconds after one another, that is often the  
16 case.

17 Q Now, what's the first communication that Ms.  
18 Wisdom's phone has on November 29th, 2011?

19 A The first one that she has is, once again, a routed  
20 call. So it's one that came in but does not look like it was  
21 completed. It happened at 12:03 A.M. and 44 seconds.

22 Q So is there any indication whether or not the  
23 person that was calling Ms. Wisdom was able to get in touch  
24 with her?

25 A What is here on the record would indicate probably

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1 that they were not but --

2 Q What number called for Ms. Wisdom?

3 A (347) 889-3277.

4 Q Did you already provide us with the subscriber  
5 information for that phone number?

6 I believe it's People's 48 you can find that  
7 information.

8 A Yes, that was the Layton Bora phone.

9 Q That was the phone number that was called by Mr.  
10 Wilson's phone after the 9-11 call?

11 A That's correct.

12 Q Can you tell me, what time did Mr. Bora reach out  
13 to Miss Wisdom November 29th, 2011?

14 A At 12:03 A.M.

15 Q What's the next time that Ms. Wisdom's phone was  
16 used?

17 A There's no activity until a text message was  
18 received on the 29th of November, it shows here 1433, which  
19 is 2:33 Central, which would have been 3:33 P.M. Eastern  
20 time.

21 Q So from just after midnight to around 3:30 on  
22 November 29th she didn't use her phone at all?

23 A That's correct.

24 MS. CHU: Okay.

25 One moment, your Honor.



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1 (Whereupon, there was a brief pause in the  
2 proceedings.)

3 THE COURT: Wisdom made a text?

4 THE WITNESS: At that time they received a  
5 text, then two minutes later they sent a text.

6 THE COURT: Wisdom sent a text?

7 THE WITNESS: Yes.

8 THE COURT: To whom?

9 THE WITNESS: At 3:35 P.M. it would have been  
10 the Layton Bora phone.

11 THE COURT: And the Layton Bora phone  
12 responded with a text?

13 THE WITNESS: It doesn't indicate on this  
14 page. It shows multiple text messages to the Layton  
15 Bora phone.

16 Q Now, I am asking you to now look at People's 47.

17 A Okay.

18 Q What subscriber and phone number are we looking at  
19 in People's 47?

20 A This is the one for (347) 231-3340 that's  
21 associated with Matthew Shepard.

22 MS. CHU: At this time, your Honor, I'd like  
23 to have this deemed marked People's 51 for  
24 identification and shown to the witness.

25 (Whereupon, the exhibit was shown to counsel.)

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1 (Whereupon, the blowup of phone record was  
2 marked as People's Exhibit 51 for identification.)

3 THE COURT: These are the phone records of  
4 Matthew Shepard?

5 MS. CHU: Yes.

6 (Whereupon, the exhibit was shown to the  
7 witness.)

8 A Okay.

9 THE COURT: What is his number, by the way?

10 THE WITNESS: (347) 231-3340.

11 THE COURT: Okay.

12 Q Taking a look at People's 51 for identification, do  
13 you recognize that?

14 A I do.

15 Q What do you recognize that to be?

16 A It is page 35 of the call records.

17 Q Is that an exact duplicate, just blown up, of what  
18 you already have in your hand, People's 47 in evidence for  
19 Matthew Shepard?

20 A Yes.

21 MS. CHU: At this time, your Honor, I offer it  
22 into evidence as People's 51.

23 MR. WALENSKY: No objection.

24 THE COURT: In evidence.

25 (Whereupon, the blowup of phone record was

Clark - People - Direct/Ms. Chu

1 marked as People's Exhibit 51 in evidence.)

2 MS. CHU: Can you post it, please?

3 (Whereupon, the exhibit was posted.)

4 MS. CHU: May the witness approach the  
5 exhibit, please?

6 THE COURT: He may.

7 MS. CHU: Thank you.

8 (Whereupon, the witness stepped down from the  
9 witness stand and approached the exhibit.)

10 Q Mr. Clark, can you just tell us, you said this is  
11 page 37 of the records?

12 A Yes.

13 Q And what dates are encompassed within this page?

14 A It starts on the 28th of November 2011 and ends on  
15 the 29th of November 2011.

16 Q Can you tell me, taking a look at November 29th,  
17 2011 at approximately 5:00 A.M., was there any communication  
18 between this phone for Matthew Shepard and the phone that was  
19 subscribed to Anthony Wilson?

20 A Yes.

21 Q And can you tell me, was it an incoming or outgoing  
22 call that Mr. Shepard -- that the phone had?

23 A It was an incoming call.

24 Q So that means that Mr. Wilson's phone was calling  
25 Mr. Shepard's phone?

Clark - People - Direct/Ms. Chu

1 A Yes.

2 Q Can you tell me, how long was this phone call?

3 A It was a total of 122 seconds, once again shows two  
4 lines but the second line being the actual phone call.

5 Q Can you tell me, are you able to determine whether  
6 or not that was an actual voice call?

7 A Yes.

8 Q Now, --

9 THE COURT: When you say "inbound," it was a  
10 call from Wilson to Shepard?

11 THE WITNESS: Yes.

12 Q What is the next time that there's communication  
13 between Mr. Shepard's phone and Mr. Wilson's phone?

14 A At 5:13 A.M. and 56 seconds there was an attempted  
15 phone call from the Shepard phone to the Wilson phone, and  
16 then again at 5:14 A.M. and 18 seconds.

17 THE COURT: There is an attempt to connect  
18 with Wilson at 5:13?

19 THE WITNESS: Yes. And then another again at  
20 5:14.

21 THE COURT: Was there a connection or not?

22 THE WITNESS: It does not indicate. Since  
23 they're 15 seconds and 11 seconds, that's not long  
24 enough to make a determination.

25 THE COURT: Okay.

Clark - People - Direct/Ms. Chu

1 THE WITNESS: I believe on other records it  
2 shows them going to voicemail.

3 Q So how many communications are had between Mr.  
4 Wilson's phone and Mr. Shepard's phone during that time  
5 period of 5:00 A.M. to about 5:15, 5:16 A.M.?

6 A There's a total of four.

7 Q Four communications?

8 A Yes.

9 Q Can you just do me a favor, use this blue  
10 highlighter and put a mark in front of that line that you are  
11 talking about.

12 A (Witness complied.)

13 Where there's two lines I actually put it in front  
14 of the line that's the actual call, not the routed using the  
15 locator.

16 Q Okay.

17 And you said that the first --

18 The four times that those two numbers communicated,  
19 the first one was a what, incoming or outgoing?

20 A Incoming.

21 Q Okay.

22 And the next, the second communication?

23 A Outgoing.

24 Q And the third communication?

25 A Outgoing.

Clark - People - Direct/Ms. Chu

1 Q And the fourth communication?

2 A Incoming.

3 THE COURT: At 5:13 and 56 seconds there was  
4 an outgoing attempt to connect?

5 THE WITNESS: Yes.

6 THE COURT: With Wilson, right?

7 THE WITNESS: Yes.

8 THE COURT: Then there was another attempt  
9 made at when?

10 THE WITNESS: 5:14 A.M. and 18 seconds.

11 THE COURT: 5:14 and how many seconds?

12 THE WITNESS: Eighteen.

13 THE COURT: When's the fourth?

14 THE WITNESS: At 5:15 A.M. and 7 seconds was  
15 the call that was received from the Wilson number.

16 Q Can you tell me, are you able to determine whether  
17 all those phone calls were either voice calls or text  
18 messages or went to voicemail?

19 A They were all voice calls. Some of them, on the  
20 outbound calls, went to the Wilson voicemail, yes, but they  
21 were all voice calls, not text messages.

22 Q Okay, thank you very much.

23 MS. CHU: I have no further questions.

24 THE COURT: Cross.

25 MR. WALENSKY: I have no questions. Thank

Proceeding

1           you.

2                   THE COURT:   You may step down.   Thank you,  
3           sir.

4                   THE WITNESS:   Thank you.

5                   (Whereupon, Norman Ray Clark stepped down from  
6           the witness stand and exited the courtroom.)

7                   THE COURT:   We will take a short recess.  
8           Ladies and gentlemen, ten minutes.

9                   Do not discuss the case amongst yourselves or  
10          with anyone.

11                   Just leave your books here.

12                   COURT OFFICER:   Remain seated until the jury  
13          exits.

14                   THE COURT:   Remain seated, please.

15                   (Whereupon, the Jury exited the courtroom.)

16                   THE COURT:   All right, ten-minute break.

17                   (Whereupon, a brief recess was held.)

18                   THE COURT:   Who's the next witness?

19                   MS. CHU:   Detective Scandole.

20                   MR. WALENSKY:   I also have another motion for  
21          a mistrial.

22                   THE COURT:   All right.

23                   THE CLERK:   Case back on trial continues.   All  
24          parties present, defendant is present with attorney.

25                   THE COURT:   What is your application?

## Proceeding

1 MR. WALENSKY: Your Honor, I wish to move for  
2 a mistrial based upon the fact, again, I think we had  
3 more information, yesterday you allowed the testimony of  
4 the Welfare agent, for lack of a better term, and People  
5 said that they wanted to do it to complete the  
6 transaction.

7 THE COURT: The narrative.

8 MR. WALENSKY: But the People were -- well,  
9 being without prejudice, ultimately we went through way  
10 beyond January 3rd when Mr. Wilson's body was found and  
11 so there was excess regarding the transaction subsequent  
12 to that, but really what is even a stronger argument,  
13 and I feel that that was prejudicial, we were going  
14 through it and also Ms. Chu brought out the full point  
15 that somebody needed a PIN number and it would be more  
16 likely that somebody who lived with him would have a PIN  
17 number than some stranger. But we started to,  
18 essentially, get into anyone can use the card, but that  
19 wasn't the point, it was supposed to be for the  
20 transaction.

21 However, the point is, with the phone  
22 testimony that we had today where the People were able  
23 to show that Mr. Shepard's phone was used subsequent to  
24 that to call these other numbers and to call Matthew  
25 Shepard, which will be a witness, if the People are



## Proceeding

1 attempting to provide as a witness, they were certainly  
2 able to show the transit -- I'm sorry -- to show the  
3 transaction that he called 911 up to a certain time,  
4 subsequent to that time calls were made in a totally  
5 different pattern and that the pattern matched the  
6 pattern of Atara Wisdom's phone calls prior to that.  
7 Essentially, Matthew Shepard's phone -- not Matthew --  
8 essentially, Anthony Wilson's phone was now being used  
9 to call numbers that Atara Wisdom had previously called  
10 with her phone and that subsequent to that, that was the  
11 pattern on that and it really -- without the damage in  
12 terms of the prejudice regarding the uncharged crime,  
13 the illegal use, and again the People did not present  
14 this as -- Judge, we want through this -- as a charged  
15 crime, of Molineux, we believe that the Court sua sponte  
16 initiated it. I would move that with this additional  
17 information, it really shows that the purpose of the  
18 testimony of yesterday's witness was not transactional,  
19 it was really a matter of trying to put before the jury  
20 something that is far more prejudicial than it was  
21 probative, considering all of the other information they  
22 had, and that the Court at the time perhaps did not have  
23 enough information, but based upon all of the  
24 information the Court has and the strength of the  
25 People's witness regarding transactions through the

## Proceeding

1 cellphone, that it obviously was used for prejudice as  
2 opposed to a probative value. And, therefore, I believe  
3 there should be a mistrial, or at the very least all of  
4 the testimony of the EBT witness -- I'm sorry -- the  
5 Welfare witness should be, at a minimum, stricken.

6 Thank you.

7 THE COURT: Application's denied.

8 MR. WALENSKY: Note my exception.

9 THE COURT: All right, we'll have the Wade  
10 hearing.

11 MS. CHU: Thank you.

12 THE COURT: Call your witness.

13 MS. CHU: Huntley.

14 THE COURT: I mean Huntley.

15 Call your witness.

16 MS. CHU: The People call Detective  
17 Christopher Scandole.

18 He's in the conference room.

19 (Whereupon, there was a brief pause in the  
20 proceedings.)

21 COURT OFFICER: Witness entering.

22 (Whereupon, Detective Scandole entered the  
23 courtroom and took the witness stand.)

24 THE CLERK: Please raise your right hand.

25 Do you solemnly swear or affirm the testimony

Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 you're about to give will be the truth, the whole truth  
2 and nothing but the truth, so help you God?

3 THE WITNESS: Yes, I do.

4 THE CLERK: Please put your hand down.

5 State your name for the record.

6 THE WITNESS: Detective Christopher Scandole.

7 THE CLERK: Spell your last name.

8 THE WITNESS: S-C-A-N-D-O-L-E.

9 THE CLERK: Give your shield.

10 THE WITNESS: 5735.

11 THE CLERK: And your command?

12 THE WITNESS: Brooklyn North Homicide Squad.

13 THE CLERK: Thank you.

14 THE COURT: Proceed.

15 MS. CHU: Thank you.

16 C H R I S T O P H E R S C A N D O L E, Detective,  
17 Shield No. 5735, Brooklyn North Homicide Squad,  
18 New York City Police Department, called as a  
19 witness by and on behalf of the People of the State  
20 of New York, after having been first duly sworn,  
21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. CHU:

24 Q Good afternoon, Detective.

25 A Good afternoon.

Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 Q Do you recall testifying at a hearing back on  
2 October 30th of 2013 with regard to the case of the People of  
3 the State of New York versus Atara Wisdom?

4 A Yes.

5 Q And do you recall when you were at that hearing you  
6 spoke about various statements that you had taken from Ms.  
7 Wisdom after Miranda on July 25th of 2011 -- I'm sorry --  
8 July 25th, 2012?

9 A Yes.

10 Q Now, I want to direct your attention to the  
11 following morning, July 26th, 2012.

12 Did you have occasion to speak to her again?

13 A I did.

14 Q Now, was this after you had already taken the oral  
15 statement and had her sign her written statement?

16 A Yes.

17 Q And did she already go on video with the District  
18 Attorney's Office at the time you went to go speak with her  
19 at 10:00 in the morning?

20 A Yes.

21 Q Now, can you tell me, what was your purpose for  
22 going in there to speak to her?

23 A We just had a couple more questions to ask her to  
24 clear up some things.

25 Q So, now, where was she when you spoke with her?

Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 A At the 83rd Detective Squad.

2 Q What room was she in?

3 A Interview room.

4 Q Can you tell me, before -- I'm sorry.

5 When you went into the interview room with Atara

6 Wisdom, what did you say to her?

7 A I just reminded her that we read her rights  
8 yesterday and she agreed to speak with us, we just had a few  
9 more questions, if that was okay.

10 Q What did she indicate to you after you told her?

11 A She said yes.

12 Q Can you tell me, what questions did you ask her?

13 A I asked her about the victim's property.

14 Q Okay.

15 Did you ask her specifically anything about like  
16 what happened after she came out of the bathroom?

17 A Yes.

18 Q And what did she tell you?

19 A She said that after it happened, after I stabbed  
20 him, I came out of the bathroom, I saw him laying on the  
21 bed, then I picked up his phone, his wallet, his keys and I  
22 left.

23 She said she was using the phone --

24 THE COURT: Hold on a minute.

25 After I stabbed him, saw him on the bed?

Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 THE WITNESS: Yes.

2 THE COURT: And what? And what?

3 THE WITNESS: She picked up his phone, his  
4 wallet, his keys and she left.

5 THE COURT: Go ahead.

6 A She said that when she left she was using the phone  
7 but she was in a bit of a fog and she didn't remember who she  
8 was talking to.

9 She said that at one point she threw away the keys,  
10 she kept the wallet.

11 THE COURT: Just a minute.

12 She left, she was using the phone.

13 Go ahead.

14 A She threw away his keys but kept his wallet and  
15 didn't use it. She said she then went to her friend  
16 Tiffany's house, which is in the neighborhood of East 93rd  
17 Street and Rutland Road.

18 THE COURT: Go on.

19 All right, one second.

20 (Whereupon, there was a brief pause in the  
21 proceedings.)

22 THE COURT: What was the address?

23 THE WITNESS: In the vicinity of East 93rd  
24 Street and Rutland Road.

25 THE COURT: Her name was Tiffany?

Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 THE WITNESS: Yes.

2 THE COURT: Go ahead.

3 A She said that she stayed there for a couple of  
4 days. She said she continued to use the phone for a while  
5 but then she also threw that out.

6 Q Go ahead.

7 A Then I asked her directly, did you use Mr. Wilson's  
8 benefit card, and she answered absolutely not.

9 THE COURT: Go ahead.

10 A That's it.

11 Q Now, Detective, the person that you were talking to  
12 who gave you these statements on July the 26th of 2012, do  
13 you see them here in the courtroom?

14 A I do.

15 Q Can you please point to that person and indicate  
16 something they're wearing?

17 A She's wearing a brown shirt (indicating).

18 THE COURT: Indicating the defendant.

19 MS. CHU: Thank you.

20 I have nothing further.

21 THE COURT: The prior day, what was it, July  
22 25th -- when did you first speak to the defendant?

23 THE WITNESS: I first met her about 9:45 A.M.

24 THE COURT: On July 25th?

25 THE WITNESS: Yeah.

Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 THE COURT: Where did you speak to her?

2 THE WITNESS: I met her at a women's shelter,  
3 then we went back to the 83rd Precinct.

4 THE COURT: When you went back to the 83rd  
5 Precinct, where did you go?

6 THE WITNESS: To the interview room in the  
7 detectives squad.

8 THE COURT: And were you with anyone?

9 THE WITNESS: Myself and my partner, Detective  
10 Collins.

11 THE COURT: And what time did you get into  
12 that room?

13 THE WITNESS: We first booked her in the room  
14 at about 11:00 A.M.

15 THE COURT: When did you first advise her of  
16 her rights?

17 THE WITNESS: About 11:00 A.M.

18 THE COURT: And how did you advise her of her  
19 rights?

20 THE WITNESS: I read them to her off a  
21 preprinted form, recorded her answers and then she  
22 signed it, I signed it and Detective Collins signed  
23 it.

24 THE COURT: And how long did the interview  
25 take?



Det. Scandole - People - Direct/Ms. Chu (Hearing)

1 THE WITNESS: Which interview is that, your  
2 Honor?

3 THE COURT: The 25th.

4 THE WITNESS: We spoke to her for two to three  
5 hours.

6 THE COURT: And during the course of that  
7 interview or interrogation did you take notes?

8 THE WITNESS: Afterwards I documented it.

9 THE COURT: Afterwards you documented it?

10 THE WITNESS: Yes.

11 THE COURT: Did there come a time when an  
12 Assistant D.A. spoke to her?

13 THE WITNESS: Yes.

14 THE COURT: When was that?

15 THE WITNESS: That was at about 9:00 P.M. on  
16 the 25th.

17 THE COURT: A.D.A. who?

18 THE WITNESS: Purce.

19 THE COURT: Purce?

20 THE WITNESS: Purce.

21 THE COURT: Did a video interview?

22 THE WITNESS: Yes.

23 THE COURT: Were you in the room?

24 THE WITNESS: I was.

25 THE COURT: Anyone else?

Det. Scandole - People - Cross/Mr. Walensky (Hearing) <sup>211</sup>

1 THE WITNESS: Myself, Ms. Wisdom and A.D.A.  
2 Purce.

3 THE COURT: How long did that last?

4 THE WITNESS: Maybe half an hour.

5 THE COURT: What time did you leave her?

6 THE WITNESS: I left the precinct sometime  
7 later. That was pretty much my last contact with her  
8 that evening.

9 THE COURT: Then you went back on the 26th.  
10 What time did you go?

11 THE WITNESS: About 10:00 A.M.

12 THE COURT: At the 83rd Precinct?

13 THE WITNESS: Correct.

14 THE COURT: You say you advised her, reminded  
15 her of the fact that she --

16 THE WITNESS: I didn't read the whole thing,  
17 just said, remember yesterday when we read you your  
18 rights, I just have a couple more questions.

19 THE COURT: Go ahead, counsel.

20 CROSS-EXAMINATION

21 BY MR. WALENSKY:

22 Q Detective, you picked up Ms. Wisdom on the 25th at  
23 the shelter about 9:45, right?

24 A Yes.

25 Q And you took her back to the precinct at about

Det. Scandole - People - Cross/Mr. Walensky (Hearing) <sup>212</sup>

1 11:00, you gave her her Miranda rights?

2 A Yes.

3 Q And from that time on did you speak to her for two  
4 to three hours?

5 A Yes.

6 Q And you obtained a written -- you wrote out a  
7 statement, didn't you?

8 A Yes.

9 Q Now, was she in the interrogation or interview room  
10 all that time?

11 A Yes.

12 Q So she was there right up until the time of the  
13 lineup, wasn't she?

14 A Yes.

15 Q And the lineup occurred about 5:00, quarter after,  
16 something like that?

17 A Thereabouts.

18 Q But you were talking to her right up until that  
19 time, weren't you, to maybe half an hour before that?

20 A No.

21 Q Couldn't have been longer than two to three hours?

22 A No.

23 Q And after she was placed in the lineup, she was  
24 placed in a lineup not by -- and identified by someone who  
25 knew who she was, right?

Det. Scandole - People - Cross/Mr. Walensky (Hearing)

1 A Yes.

2 Q It was an identification lineup, it wasn't a lineup  
3 to say that that -- that person was a witness to the crime,  
4 correct?

5 A Yes.

6 Q And subsequent to the lineup you placed her under  
7 arrest, right?

8 A I don't know exactly what time she was placed under  
9 arrest.

10 Q At 5:00 -- at 7:30 you presented her with a written  
11 statement, right?

12 A Yes.

13 Q And you and -- you and/or your fellow detective  
14 wrote out a statement? Was it you who wrote it out?

15 A I wrote it out, yes.

16 Q You presented it to her and she read it?

17 A Yes.

18 Q And signed the statement?

19 A Yes.

20 Q Then you asked her if she wanted to give a video  
21 statement?

22 A Yes.

23 Q And she had agreed?

24 A Yes.

25 Q And the video was taken. So after --

Det. Scandole - People - Cross/Mr. Walensky (Hearing) <sup>214</sup>

1 At 7:30 where was she placed?

2 A In the interview room.

3 Q Was she cuffed all that time?

4 A No.

5 Q Okay.

6 Is it procedure to cuff someone, to leave them on  
7 the rail, or is that the discretion of the officer?

8 A That's the discretion.

9 Q And so about eleven o'clock -- I am not pinning you  
10 exactly on the video -- A.D.A. Purce came in and you had a --  
11 withdrawn.

12 A.D.A. Purce came in and made a video, took a video  
13 statement from Ms. Wisdom, right?

14 A That was about nine o'clock.

15 Q Nine o'clock, I'm sorry.

16 And she spoke, then she stopped speaking, she  
17 didn't want to speak anymore, correct?

18 A Correct.

19 Q She said, I don't want to speak anymore?

20 A Correct.

21 Q Now, at nine o'clock, after she didn't want to  
22 speak anymore, she was already arrested, right?

23 A I would have to double check, but I believe so.

24 Q She was arrested? You told us she was arrested  
25 right after the lineup, after the lineup identification, so

Det. Scandole - People - Cross/Mr. Walensky (Hearing)

1 that was hours before she made the video statement?

2 A Yes.

3 Q And subsequent to her saying she didn't want to  
4 talk anymore, you didn't take her to Central Booking, did  
5 you?

6 A No.

7 Q And she was held in the interview room overnight?

8 A I wasn't at the 83rd Precinct overnight, I don't  
9 know where she was held. I don't know if in the interview  
10 room or in the cell. I'm not --

11 Q She didn't want to talk, say anything else? She  
12 said, I don't want to talk anymore, right?

13 A Right.

14 Q But you held her overnight then took a statement in  
15 the morning, didn't you?

16 A Yes.

17 Q And moreover, that morning, on the 26th at 10:00 in  
18 the morning, you came in and you orally reminded her of her  
19 Miranda warnings, saying do you remember, do you remember we  
20 gave you those warnings about your not having to talk,  
21 something like that?

22 A Correct.

23 Q You didn't go through the --

24 A I did not.

25 Q -- the entire --

Det. Scandole - People - Redirect/Ms. Chu (Hearing) 216

1 A I did not.

2 Q But she had said the night before that she didn't  
3 want to make anymore statements, correct?

4 A She said I don't want to talk about it anymore.

5 MR. WALENSKY: Thank you. No further  
6 questions.

7 MS. CHU: Redirect.

8 THE COURT: Proceed.

9 REDIRECT EXAMINATION

10 BY MS. CHU:

11 Q Detective Scandole, did Ms. Wisdom at any time ask  
12 for a lawyer?

13 A No.

14 Q When you went in to speak to her the following day  
15 at about 10:00 A.M., did she say anything about not wanting  
16 to talk to you?

17 A No.

18 MS. CHU: I have nothing further.

19 THE COURT: All right, you may step down.

20 (Whereupon, Detective Scandole stepped down  
21 from the witness stand and exited the courtroom.)

22 THE COURT: Want to be heard?

23 MS. CHU: Yes, your Honor.

24 I believe that the statements that were  
25 obtained by Detective Scandole of the defendant the

## Proceeding

1 following day are -- should be admissible on the  
2 People's direct case in light of the fact that the  
3 defendant, although she stopped and did not want to  
4 continue speaking to Mr. Purce on the video, she never  
5 indicated she wanted a lawyer, she never says I don't  
6 want to talk to anybody anymore. She was actually  
7 visibly upset, that was the reason Mr. Purce allowed her  
8 to stop the interview at the time on video, which you  
9 can see on video.

10 In addition to that, the defendant even -- she  
11 had the opportunity, just like she did on video, to say  
12 you know what, I don't want to talk anymore right now.  
13 She didn't.

14 When Detective Scandole came in to speak to  
15 her, told her about the Miranda rights he read to her  
16 the day before, she acknowledged that and then he said,  
17 I just want to ask you a couple more questions. She  
18 never says look, I don't want to talk about this  
19 anymore. She could have repeated what she said on video  
20 but she didn't. She had opportunities.

21 It's not like they forced her to talk, they  
22 just asked, we want to ask you a couple more questions,  
23 she said okay. For those reasons the People submit that  
24 these statements should be admissible on our direct  
25 case.



## Proceeding

1 MR. WALENSKY: Your Honor, this is somebody  
2 who's arrested at 5:30 in the afternoon, does give a  
3 video statement, is clearly upset, says I don't want to  
4 talk anymore. Rather than take Ms. Wisdom to Central  
5 Booking, she is under arrest, that would be the  
6 procedure, she is kept overnight and --

7 THE COURT: So is this an unreasonable delay?

8 MR. WALENSKY: One, it is unreasonable,  
9 especially after somebody has said I don't want to talk  
10 anymore, that should suffice and be enough and --

11 THE COURT: She said she didn't want to talk  
12 anymore to the A.D.A., so the next day -- actually, I  
13 don't know, what were her exact words on the video?

14 MS. CHU: Just give me one minute, I'll tell  
15 you.

16 MR. WALENSKY: Here it is. May I read it?

17 THE COURT: Let me see it.

18 Sergeant.

19 MS. CHU: There's a transcript.

20 MR. WALENSKY: We have the transcript.

21 MS. CHU: Here's the last two pages.

22 THE COURT: Give me a copy.

23 (Whereupon, the document was handed to Judge

24 Tomei.)

25 THE COURT: Actually, yeah, but -- is this

## Proceeding

1 it?

2 MS. CHU: That's the ending of her video.

3 THE COURT: The way I read this is that she  
4 didn't even -- the question --

5 Well, I will put it on the record.

6 MS. CHU: It's actually Mr. Purce who  
7 suggests, you want to stop.

8 THE COURT: The reason I am reading from the  
9 transcript, page 29:

10 "QUESTION: You okay? You want to take a  
11 minute? You want us to stop for a second or do you want  
12 to continue? You want to stop for a second?

13 "All right."

14 A.D.A. Purce:

15 "We're just going to hold out here for a  
16 little bit. You just take your time, all right?

17 "All right.

18 "You know what, I think we're going to --  
19 we're going to stop now, and if you want to continue,  
20 we'll talk in a second, okay.

21 "You want us to stop right now?

22 "ANSWER: Yeah."

23 A.D.A. Purce:

24 "All right, just stop the tape for now.

25 There will be no further questions until we resume the

## Proceeding

1 tape."

2 Did they resume the tape?

3 MS. CHU: No.

4 THE COURT: She wanted to stop. That doesn't  
5 mean they couldn't the next day -- did they resume the  
6 tape?

7 He reminded her, according to the detective,  
8 that he did, of the fact that he had given her rights  
9 and if she wanted to continue.

10 MR. WALENSKY: It's our position he should  
11 have gone through her rights again in their entirety.

12 THE COURT: It's not required. Once she's  
13 informed, she's been warned.

14 She doesn't have to be re-advised.

15 MR. WALENSKY: Well, perhaps at some point the  
16 Court of Appeals will change their mind. I am aware of  
17 the status of the law.

18 But we feel that it's too long a delay.  
19 Regardless, it was too long a delay to hold her  
20 overnight. He could have asked her the questions a  
21 little bit later. It's overnight, she softened up.

22 THE COURT: She was really arrested when?  
23 After the lineup, right?

24 MS. CHU: I was actually going to look about  
25 when on the online booking sheet.

## Proceeding

1 MR. WALENSKY: She is in custody at a quarter  
2 to 10:00 in the morning on the 25th, she is arrested  
3 officially right after the lineup about 5:30.

4 THE COURT: Then she is arraigned when?

5 MR. WALENSKY: She's not arraigned until, I  
6 believe, the 28th.

7 THE COURT: The 28th?

8 MR. WALENSKY: Arraigned on the 28th.

9 MS. CHU: There was a 730 issue. She needed  
10 to go to Bellevue.

11 MR. WALENSKY: There was -- right, there was a  
12 730 issue.

13 MS. CHU: That is the reason why there was a  
14 delay in arraignment.

15 There was medical attention that was needed  
16 when they were trying to process her.

17 THE COURT: It's the Court's opinion the fact  
18 that there was a delay from say the time that she was  
19 placed under arrest until the next morning, that the  
20 fact that there -- that fact doesn't make it  
21 unreasonable to her arraignment later on.

22 MR. WALENSKY: Note my exception.

23 THE COURT: All right. All right.

24 So it's the Court's opinion, after listening  
25 to Detective Scandole, that the People have proven

## Proceeding

1 beyond a reasonable doubt that the defendant did make a  
2 statement on the 26th of July and that statement was  
3 knowingly made, voluntarily made, and intelligently made  
4 and is admissible at trial. All right.

5 MR. WALENSKY: Exception.

6 THE COURT: Motion to suppress said statement  
7 or statements is denied.

8 All right, get the jury out.

9 What we'll do is --

10 You have Scandole, then who else?

11 MS. CHU: The ME is this afternoon. I have Ed  
12 Purce for the video.

13 THE COURT: It's almost lunch so I will just  
14 send them out.

15 MS. CHU: Okay.

16 THE COURT: We will continue at one o'clock --  
17 I mean, at two o'clock.

18 (Whereupon, there was a brief pause in the  
19 proceedings.)

20 THE COURT: Bring out the jury, please.

21 COURT OFFICER: Jury entering.

22 (Whereupon, the Jury entered the courtroom.)

23 THE CLERK: All members of the jury are  
24 present.

25 Both sides waive reading of the roll call?

## Proceeding

1 MS. CHU: Yes.

2 MR. WALENSKY: Yes.

3 THE CLERK: Thank you.

4 THE COURT: Ladies and gentlemen, in light of  
5 the hour, it's now 12:45, we're going to adjourn for the  
6 luncheon period and we'll return at two o'clock and then  
7 we'll continue on with the hearing -- I mean, with the  
8 trial.

9 So, do not discuss the case amongst yourselves  
10 or with anyone else. Do not visit the place where the  
11 alleged crimes occurred. Have no contact with any of  
12 the parties involved in the matter, including the  
13 Court.

14 Again, do not resort to utilizing any digital  
15 or electronic devices for the purpose of obtaining any  
16 information about this matter.

17 Have a very good lunch and return at two  
18 o'clock. See you then.

19 Just leave your books.

20 THE CLERK: Audience, remain seated until the  
21 jury exits. Audience.

22 (Whereupon, the Jury exited the courtroom.)

23 THE COURT: Okay, two o'clock.

24 (Whereupon, a lunch recess was held.)

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## Proceeding

1 A F T E R N O O N S E S S I O N

2 \* \* \*

3 THE CLERK: Come to order, Part 2 is back in  
4 session, the Honorable Albert Tomei presiding.

5 THE COURT: Bring her out.

6 (Whereupon, there was a brief pause in the  
7 proceedings.)

8 THE COURT: All right, bring her out.

9 THE CLERK: Case back on trial continues.  
10 Defendant is present with her attorney, parties are  
11 present. Appearances are the same.

12 THE COURT: All right, get the jury out,  
13 please.

14 (Whereupon, there was a brief pause in the  
15 proceedings.)

16 MS. CHU: We're doing the doctor first.

17 THE COURT: Who's this, Frederic?

18 MS. CHU: No, Dr. Irini Scordi-Bello.

19 THE COURT: Okay, bring the jury out, please.

20 COURT OFFICER: Jury entering.

21 (Whereupon, the Jury entered the courtroom.)

22 THE CLERK: All the jurors are present and  
23 seated.

24 Both sides waive the roll call?

25 MS. CHU: So waived.

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1 MR. WALENSKY: Yes.

2 THE COURT: Call your next witness, please.

3 MS. CHU: The People call Dr. Irini  
4 Scordi-Bello.

5 (Whereupon, there was a brief pause in the  
6 proceedings.)

7 COURT OFFICER: Witness entering.

8 (Whereupon, Dr. Irini Scordi-Bello entered the  
9 courtroom and took the witness stand.)

10 THE CLERK: Raise your right hand, please.

11 Do you solemnly swear or affirm that the  
12 testimony you're about to give will be the truth, the  
13 whole truth and nothing but the truth, so help you  
14 God?

15 THE WITNESS: Yes.

16 THE CLERK: Put your hand down.

17 State your name for the record.

18 THE WITNESS: My first name is Irini.

19 THE CLERK: Spell your first name.

20 THE WITNESS: I-R-I-N-I.

21 My last name is Scordi-Bello, S-C-O-R-D-I  
22 hyphen B-E-L-L-O.

23 THE CLERK: Thank you.

24 THE COURT: Proceed.

25 MS. CHU: Thank you.



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1 I R I N I S C O R D I - B E L L O, called as a witness  
2 by and on behalf of the People of the State of  
3 New York, after having been first duly sworn, was  
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. CHU:

7 Q Good afternoon, Doctor.

8 A Good afternoon.

9 Q Are you licensed to practice medicine in the State  
10 of New York?

11 A Yes, I am.

12 Q And what is your field of specialty?

13 A Forensic pathology.

14 Q Can you explain to the members of the jury, what  
15 does forensic pathology allow you to do?

16 A Forensic pathology is a branch of pathology which  
17 in turn is a branch of medicine. Forensic pathology deals  
18 with determining the cause of death and the manner of death,  
19 why people died and how they died.

20 Q Now, did you have any specific training to become  
21 specialized in forensic pathology?

22 A Yes.

23 Q And what was that?

24 A I completed first a Bachelor's degree, which was  
25 followed by a doctorate degree, which was followed by a

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1 medical degree and then three years of pathology residency  
2 followed by a year of forensic pathology fellowship.

3 Q Now, are you currently employed as a forensic  
4 pathologist?

5 A Yes.

6 Q In what agency?

7 A At the Office of the Chief Medical Examiner for the  
8 City of New York.

9 Q And what is your title?

10 A I'm a medical examiner two.

11 Q Now, in your position with the ME's office have you  
12 had occasion to perform autopsies?

13 A Yes.

14 Q Can you please describe what an autopsy is?

15 A An autopsy is a surgical procedure, it starts with  
16 a very careful, thorough examination of the outside of the  
17 body where we determine and document any signs of natural  
18 disease or any signs of injury and then continues with an  
19 internal examination where we examine all the organs in the  
20 chest, abdomen, pelvis, as well as the brain, again to  
21 determine if there is any natural disease or any injury.

22 Q Now, how many autopsies have you performed in your  
23 career?

24 A Approximately a thousand by now.

25 Q And in your position as a Medical Examiner have you

Dr. Scordi-Bello - People - Direct/Ms. Chu

1 had occasion to testify in courts of law?

2 A Yes, I have.

3 Q In which courts have you done so and how many  
4 times?

5 A In Grand Jury as well as Supreme Court in New York  
6 County and Kings County, in approximately I think this will  
7 be the thirtieth time.

8 Q Now, on each occasion have you been qualified as an  
9 expert?

10 A Yes.

11 Q In what field?

12 A In the field of forensic pathology.

13 MS. CHU: At this time, your Honor, I would  
14 offer Dr. Scordi-Bello as an expert in the field of  
15 forensic pathology.

16 THE COURT: Which you say is the study of  
17 cause...

18 THE WITNESS: Cause and manner of death.

19 THE COURT: And manner, yes, all right.

20 Any objection?

21 MR. WALENSKY: No objection, your Honor.

22 THE COURT: She is deemed an expert in the  
23 field of forensic pathology.

24 MS. CHU: At this time, your Honor, pursuant  
25 to CPLR 4518 I'm going to offer the certified copies of

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1 the autopsy report into evidence as People's 52.

2 THE COURT: Okay. People's what?

3 MS. CHU: 52.

4 COURT OFFICER: 52.

5 (Whereupon, the exhibit was shown to counsel.)

6 MR. WALENSKY: No objection. No objection.

7 THE COURT: All right, received.

8 (Whereupon, the autopsy report was marked as  
9 People's Exhibit 52 in evidence.)

10 Q Doctor, on January 4th of 2012 was an autopsy  
11 performed on a body that was identified to your office as  
12 Anthony Wilson?

13 A Yes.

14 Q Can you tell me, was there a case number assigned  
15 to that case?

16 A Yes.

17 Q What was the case number?

18 A Case was K12-41.

19 Q Now, can you tell me who actually conducted the  
20 autopsy?

21 A The autopsy was conducted by Dr. Frede Frederic.

22 Q Can you tell me where she is now?

23 A She is happily retired.

24 Q Now, can you tell me, as a medical examiner, when  
25 you perform autopsies are you mandated to prepare an autopsy

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1 report with regard to your findings?

2 A Yes.

3 Q And is that considered a business record for you to  
4 prepare?

5 A Yes.

6 Q Now, have you had an opportunity to review the  
7 autopsy report and photographs that were taken of the autopsy  
8 conducted on Anthony Wilson?

9 A Yes, I did.

10 Q Now, can you tell me, what was the height, weight  
11 and approximate age of Anthony Wilson on the autopsy?

12 A The approximate weight was 155 pounds, his height  
13 was approximately 69 inches, which would be five feet nine  
14 inches, and his age was approximately 50 years old.

15 Q Okay.

16 THE COURT: How old?

17 THE WITNESS: What did you say?

18 THE COURT: How old?

19 THE WITNESS: Fifty.

20 Q Can you tell me, what was Mr. Wilson's -- how was  
21 he upon autopsy? What did he appear like?

22 A He appeared to be a well-developed, well-nourished  
23 black male.

24 Q Were there any recent injuries or anything unusual  
25 about his body?

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1           A     There were injuries. There were a total of seven  
2 stab wounds on the body, which was also in a state of what we  
3 call morbid putrefaction.

4           Q     What is morbid putrefaction?

5           A     Morbid putrefaction is the breakdown of the body  
6 after death, which happens with time. So, Mr. Wilson's body  
7 was morbidly putrefied, it showed green discoloration of the  
8 skin, of the face and the trunk and as well as his arms and  
9 legs. There were areas of skin blistering, which is another  
10 change that happens after death, as well as some maggot  
11 activity on his face as well as his body.

12          Q     You said that the autopsy revealed that there were  
13 seven stab wounds to Mr. Wilson's body?

14          A     Correct.

15          Q     Can you tell me, did Dr. Frederic assign numbers to  
16 each of those seven wounds?

17          A     Yes, she did.

18          Q     How did she assign those numbers?

19          A     The numbers are assigned arbitrarily.

20          Q     What does that mean?

21          A     That means that there is no sequence implied as to  
22 which stab wound was inflicted first or second, it's just  
23 arbitrary.

24                 We usually start with the head and then, you know,  
25 depending on the Medical Examiner's style, we proceed, you

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1 know, to go down the body and number the stab wounds.

2 Q So you go front top to bottom and then back?

3 A Usually. Again, like I said, depending on the  
4 Medical Examiner's style.

5 Q Now, if you can just -- the wound that was given  
6 the label number one by Dr. Frederic, can you just tell us,  
7 where was that wound and describe it for us?

8 A Yes.

9 That wound was on the right side of the chest,  
10 approximately as measured with the body on the table, 13  
11 inches below the top of the head, and the depth of that stab  
12 wound was approximately half an inch with minimal amount of  
13 damage or minimal amount of bleeding.

14 THE COURT: What was the depth?

15 THE WITNESS: Half an inch.

16 THE COURT: One-half inch.

17 Q Can you show me on your body, where was that first  
18 wound that was labeled number one?

19 A Yes.

20 It was on the right chest, right here (indicating).

21 Q Where you are pointing?

22 A Yes.

23 Q Just below the right clavicle?

24 A Right.

25 Q Can you tell me, were there any organs affected at

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1 all by that stab wound?

2 A No.

3 Q Was Dr. Frederic able to determine the direction of  
4 the stab wound?

5 A Yes.

6 Q What was it?

7 A The direction was from right to left, front to back  
8 and downward.

9 Q Okay.

10 Was she able to determine the dimensions of the  
11 wound?

12 A The dimensions were approximately three-eighths of  
13 an inch long and one-eighth of an inch wide.

14 Q Now, can you describe for us the second wound?

15 A Okay.

16 The second wound was on the left chest and it was  
17 approximately ten inches from the top of the head and two  
18 inches to the left of midline.

19 We measure things from the top of the head and from  
20 the midline of the body, again with the body flat on the  
21 table.

22 And the wounds on the left chest, there's actually  
23 not just wound number two, but number two, three, four and  
24 five, she described those as a group, as a cluster, because  
25 they were close to each other.



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1           So in that area of the body, approximately ten  
2 inches below the head and two inches to the left of the  
3 middle, of the midline of the body, there were four stab  
4 wounds labeled two, three, four and five.

5           Q     Okay.

6           Can you tell me, for two, three, four and five,  
7 were there any organs affected by any of those wounds?

8           A     Yes. The heart and the left lung.

9           Q     Okay.

10          Which of the wounds that she labeled two, three,  
11 four, five pertain to the heart versus the lung?

12          A     Okay.

13          Stab wound number four is the wound that enters the  
14 left chest and injures the heart. And stab wound number five  
15 from that cluster enters and injures the lung.

16          Q     Can you tell me, wound number two and three, they  
17 do not affect any organs?

18          A     No, they do not. They did not enter the chest  
19 cavity, they just go through the skin and some of the tissues  
20 under the skin.

21          Q     Can you tell me, was Dr. Frederic able to determine  
22 the direction of those stab wounds, two, three, four and  
23 five?

24          A     Yes. The direction for those four stab wounds was  
25 from left to right, from front to back and all downward.

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1 Q Now, what about, you had mentioned a depth of the  
2 wound. Was she able to determine the depth of the wound for  
3 those four stab wounds, two, three, four and five?

4 A Yes.

5 Q What was the depth?

6 A For stab wounds two and three, which two and three  
7 were the more superficial ones that do not enter the chest  
8 cavity, the depth was approximately two inches.

9 For stab wounds four and five, which enter the  
10 chest cavity, injure the heart and the lung, the approximate  
11 depth was five to six inches.

12 THE COURT: Two or three were how many  
13 inches?

14 Wounds two and three, what was the depth?

15 THE WITNESS: Approximately two inches.

16 THE COURT: Do me a favor, open all these  
17 doors, that door and that door, it's too hot.

18 (Whereupon, there was a brief pause in the  
19 proceedings.)

20 Q Can you tell me, was there a dimension taken of the  
21 actual wound itself for any of these two, three, four and  
22 five wounds that she labeled?

23 A Yes.

24 One of them measured about a quarter of an inch by  
25 quarter of an inch and the others measured approximately

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1 three-eighths of an inch by a quarter of an inch.

2 Q Now, did the decomposition of Mr. Wilson's body  
3 affect, at all, her ability to examine the actual wound  
4 itself?

5 A Yes, because the edges of the wounds become very  
6 dry and so it's difficult to examine in great detail what the  
7 angles, what the edges of the wound look like.

8 Q Did the decomposition affect her ability at all to  
9 determine dimensions or depth of the wounds?

10 A No.

11 Q Now, can you tell me, we've gone through up to the  
12 wound that she labeled number six?

13 A Yes.

14 Q Can you describe that one for us?

15 A Wound number six was in the left lower chest or  
16 upper abdomen and measured three-eighths of an inch.

17 THE COURT: Where was this wound number six?  
18 Sorry, say that again. Wound number six, what?

19 THE WITNESS: Was on the left side lower  
20 chest, upper abdomen, measured three-eighths of an inch  
21 by a quarter of an inch.

22 THE COURT: Wait.

23 THE WITNESS: And --

24 THE COURT: Wait. How many inches? Measured  
25 what?

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1 THE WITNESS: Measured three-eighths of an  
2 inch by a quarter of an inch.

3 THE COURT: Go ahead.

4 A That stab wound also entered the chest and injured  
5 the left lung.

6 Q Can you tell me, was Dr. Frederic able to determine  
7 the direction of that wound?

8 A Yes. The direction of stab wound number six was  
9 front to back, from left to right and upwards.

10 Q What was the depth of that wound?

11 A That was also measured at approximately five to six  
12 inches deep.

13 Q Now, where was the seventh wound?

14 A The seventh wound was on the left upper back.

15 Q Can you just show us on your body where that is?

16 A Left upper back (indicating), sort of posterior  
17 shoulder.

18 Q Just on the opposite side of your shoulder?

19 A Yeah, right here.

20 Q Can you tell me, can you describe that wound for  
21 us?

22 A Yes.

23 That wound measured five-eighths of an inch by a  
24 quarter inch and penetrated into the skin as well as the  
25 muscle of the upper back, and its depth was approximately

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1 two-and-a-half inches.

2 Q Was there a directionality that was able to be  
3 determined?

4 A Yes. Stab wound number seven went from back to  
5 right, left to right and downward.

6 Q Have you completed your remarks regarding all seven  
7 stab wounds?

8 A Yes.

9 Q Based on the autopsy that was performed by Dr.  
10 Frederic, did you concur with her cause of death that she --  
11 the same conclusion she came to?

12 A Yes.

13 Q Can you tell me, what was the cause of death for  
14 Anthony Wilson, to a reasonable degree of medical  
15 certainty?

16 A The cause of death was stab wounds to the trunk  
17 with heart, lung and musculoskeletal injuries.

18 Q Now, can you tell me on wound number --

19 THE COURT: Stab wounds to trunk and what?

20 THE WITNESS: With heart, lung and  
21 musculoskeletal injuries.

22 THE COURT: Okay, go ahead.

23 Q Now, I just want to go back to wound number four.  
24 You indicated that wound number four was the one that  
25 affected the heart?

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1 A Yes.

2 Q And can you tell me, you said the depth of that  
3 wound was how many inches?

4 A Approximately five to six.

5 Q Now, did that wound affect anything other than  
6 organs when it went in?

7 A That cluster of wounds, not number four  
8 specifically, but the cluster of two, three, four and five  
9 also injured the left fourth rib.

10 Q So when you say it injured the left fourth rib,  
11 what do you mean by that?

12 A It cut the rib.

13 Q It cut through the rib?

14 A Yes.

15 Q So was the rib completely separated or there was  
16 actually a stab wound that goes right through the bone?

17 A It was -- she describes it as the left fourth rib  
18 is cut.

19 Q Okay.

20 How much pressure would you need to have on a knife  
21 to go through a body and actually cut through bone?

22 MR. WALENSKY: Objection. It's not -- it's  
23 not the testimony.

24 THE COURT: What is your interpretation of Dr.  
25 Frederic's conclusion that or observation that -- that

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1 was the left rib?

2 THE WITNESS: Yes.

3 THE COURT: Was cut, what does that mean?

4 THE WITNESS: It takes more force or more  
5 pressure to go through bone than it does to go through  
6 soft tissue, like the skin or soft organs like the  
7 heart. So, I can't give you a number but I can, you  
8 know --

9 THE COURT: The word "cut," does that mean  
10 that the rib itself, the bone, was cut?

11 THE WITNESS: Yes.

12 THE COURT: All right.

13 And do you know if --

14 Does the report reflect the dimension of the  
15 cut?

16 THE WITNESS: No.

17 THE COURT: Okay.

18 Q Now, I'd like to give you a hypothetical, Doctor.

19 Given the state of decomposition of Mr. Wilson's  
20 body, is that consistent with the time of death being around  
21 November 29th, 2011?

22 A Yes.

23 Q Okay.

24 Can you tell us why?

25 A Given the environmental conditions that were stated

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1 in the report, specifically the temperature of the room being  
2 cold, approximately somewhere in the mid-thirties, it's very  
3 consistent that Mr. Wilson was -- died in late November and  
4 not discovered until January.

5 Q Okay.

6 And can you tell me, were any of the stab wounds  
7 that you found to -- I'm sorry -- that Dr. Frederic found to  
8 Mr. Wilson's body, were any of them slash wounds?

9 A No.

10 Q What is the difference between a stab wound and a  
11 slash wound?

12 A A stab wound is deeper than it is long on the skin.  
13 A slash wound is usually a long wound on the skin without  
14 much depth.

15 Q Okay.

16 And, so, did Mr. Wilson have any injuries on him  
17 that were consistent with a laceration or a slash from a  
18 knife?

19 A No.

20 Q Now, were there any injuries to his hands or his  
21 arms that would be consistent with someone putting up his  
22 arms or hands in front of him?

23 A No, he had no injuries to his hands or arms.

24 Q Now, you also mentioned that the wounds, two, three  
25 four, five, were clustered?



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1 A Correct.

2 Q And can you tell me, is the clustering consistent  
3 with the wounds having been inflicted in close succession?

4 A Yes.

5 Q And why is that?

6 A Their proximity. The fact that they're so close to  
7 each other would suggest that they were inflicted, you know,  
8 quickly, one after the other.

9 Q Now, is that suggestive of someone who's actively  
10 moving and struggling with the person with a knife or is it  
11 more consistent --

12 MR. WALENSKY: Objection. Beyond the scope of  
13 the expertise.

14 THE COURT: First off, finish your question,  
15 all right.

16 Q Is that suggestive of someone who's actively moving  
17 and struggling with a person that has the knife or is it more  
18 consistent with someone who's not moving and is passive?

19 MR. WALENSKY: Objection. It's beyond the  
20 expertise of this witness.

21 THE COURT: I don't know.

22 Can you answer that question yes or no?

23 THE WITNESS: It could be suggestive of rapid  
24 succession in someone who's not actively --

25 MR. WALENSKY: Objection. It sounds like a

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1 guess as opposed to knowledge through training.

2 THE COURT: The question is, is it  
3 consistent -- repeat the question, all right. Not you,  
4 the Reporter.

5 (Whereupon, the referred-to question was read  
6 back by the Reporter.)

7 THE COURT: Can you, with any degree of  
8 medical certainty, give an opinion?

9 A In my opinion, it is more suggestive of someone  
10 who's not actively moving.

11 THE COURT: Okay.

12 Q Now, you had mentioned that there was that one  
13 injury to the back of the shoulder or back of the arm?

14 A Correct.

15 Q I'm sorry, just on the other side of the arm.  
16 Yes?

17 A Yes.

18 Q Okay.

19 What did that -- I'm sorry, withdrawn.

20 Is it possible that someone who's standing in front  
21 of you could give you a stab wound to the back?

22 A It's possible.

23 Q Okay.

24 Now, --

25 MR. WALENSKY: Objection, your Honor. I'd

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1 like to voir dire the witness on expertise regarding  
2 their ability to know how wounds are --

3 THE COURT: You will have the time to  
4 cross-examine the witness.

5 Q Now, Doctor, I want to give you another  
6 hypothetical.

7 If the person who has the knife is bent forward  
8 from the waist and the victim is leaning over them while also  
9 facing them, would you expect the stab wounds would be  
10 oriented upwards or downwards?

11 MR. WALENSKY: Objection. It's --

12 THE COURT: I'm sorry.

13 Reframe your question, please.

14 Q I'd like to give you a hypothetical.

15 Let's assume that the person who has the knife is  
16 standing but bent forward from the waist and that the person  
17 that they're going to stab is standing in front of them but  
18 leaning over them and on top of them.

19 If the person who has the knife were to stab the  
20 person that's standing in front of them and over them, would  
21 you expect the stab wounds to be oriented upwards or  
22 downwards?

23 MR. WALENSKY: Objection, your Honor. It's --  
24 it's -- one, it's leading. Two, the witness is a  
25 forensic pathologist, is a forensic expert but has not

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1 shown any expertise regarding any -- training regarding  
2 where wounds are. She looks at autopsies or autopsies  
3 bodies. There's been no expertise shown.

4 THE COURT: She is an expert in forensic  
5 pathology.

6 MR. WALENSKY: But she's not necessarily an  
7 expert in terms of how --

8 THE COURT: You will have an opportunity to  
9 cross-examine the witness.

10 MR. WALENSKY: Note my objection.

11 THE COURT: It's noted.

12 The objection to that is sustained.

13 Q Let me ask you this, Doctor. Did you understand  
14 what I was asking in that last question?

15 A Yes, I did.

16 Q Okay.

17 So let's assume that you have two people that are  
18 in those positions, the first one --

19 MR. WALENSKY: Objection. You just sustained  
20 it.

21 THE COURT: Sustained.

22 Q Other than stab wound number six, did Mr. Wilson  
23 have any other wounds that were in an upward direction?

24 A No.

25 Q Were toxicology exams requested on the fluids from

Dr. Scordi-Bello - People - Direct/Ms. Chu

1 Anthony Wilson?

2 A Yes.

3 Q Can you explain to the members of the jury what  
4 toxicology exams are?

5 A Toxicology is examination or analysis of fluids  
6 from the body for the presence of either prescription  
7 medications or illicit drugs.

8 Q Can you tell me, what were the fluids that were  
9 submitted for testing?

10 A The fluids that were submitted were blood as well  
11 as brain tissue. Because the body of Mr. Wilson was -- was  
12 putrefied, no other fluids were available, such as urine or  
13 vitreous fluid, which is something we usually submit for the  
14 toxicology.

15 Q Okay.

16 Can you tell us, what were the results?

17 A Yes.

18 The blood that was submitted was positive for  
19 ethanol, that's alcohol, Fluoxetine, which is an  
20 antidepressant, and Benzoyllecgonine, which is a metabolite  
21 or breakdown product of cocaine, as well as Levamisole,  
22 which is a drug that is usually used to -- it usually  
23 accompanies cocaine, it's something that is used to cut the  
24 cocaine.

25 THE COURT: It was positive for alcohol, what

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1 else?

2 THE WITNESS: Alcohol, Fluoxetine, that's an  
3 antidepressant.

4 THE COURT: Could you spell that?

5 THE WITNESS: F-L-U-O-X-E-T-I-N-E.

6 THE COURT: X-E-T-I-N-E.

7 What is Fluoxetine?

8 THE WITNESS: Antidepressant medication.

9 THE COURT: What was the other two?

10 THE WITNESS: Benzoylecgonine.

11 THE COURT: Spell that.

12 THE WITNESS: B-E-N-Z-O-Y-L-E-C-G-O-N-I-N-E.

13 THE COURT: C-G-O...

14 THE WITNESS: N-I-N-E.

15 THE COURT: What is that?

16 THE WITNESS: That is a byproduct of cocaine.

17 THE COURT: What was the other last one?

18 THE WITNESS: Last one, Levamisole.

19 THE COURT: L-E --

20 THE WITNESS: V-A-M-I-S-O-L-E.

21 THE COURT: What is that?

22 THE WITNESS: That's -- I would call it an  
23 adulterant or a contaminant in the cocaine.

24 THE COURT: Okay, go ahead.

25 Q Now, Doctor, did the stage of decomposition in

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1 Mr. Wilson's body affect the results of the toxicology at  
2 all?

3 A Decomposition does affect toxicology results  
4 slightly. The levels might be slightly increased or slightly  
5 decreased but doesn't alter them significantly.

6 Q Okay.

7 Now, can you tell me, were there any other injuries  
8 to Mr. Wilson's body?

9 A No.

10 MS. CHU: At this time, your Honor, if I can  
11 have this marked People's Number 53 for identification.

12 (Whereupon, the exhibit was shown to counsel.)

13 (Whereupon, the blowup of diagram was marked  
14 as People's Exhibit 53 for identification.)

15 (Whereupon, the exhibit was shown to the  
16 witness.)

17 Q Dr. Scordi-Bello, --

18 THE COURT: What is this, number 53?

19 Q -- do you recognize what's being shown to you?

20 A Yes.

21 Q What do you recognize that to be?

22 A It's a magnified copy of the diagram that Dr.  
23 Frederic completed at the time of autopsy.

24 Q Is that one of the diagrams -- one of the things  
25 that you reviewed before you testified here on this case?

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1 A Yes.

2 MS. CHU: At this time, your Honor, I would  
3 offer it into evidence as People's 53.

4 THE COURT: Any objection?

5 MR. WALENSKY: No objection, no.

6 THE COURT: It's in evidence.

7 (Whereupon, the blowup of diagram was marked  
8 as People's Exhibit 53 in evidence.)

9 MS. CHU: Can I have it posted, please?

10 (Whereupon, the exhibit was posted.)

11 MS. CHU: I am going to hand up a marker to my  
12 witness.

13 Your Honor, may the witness approach the  
14 exhibit?

15 THE COURT: You may.

16 (Whereupon, the witness stepped down from the  
17 witness stand and approached the exhibit.

18 Q Doctor, if you can just walk us through what we are  
19 looking at here.

20 A These are the seven stab wounds that Dr. Frederic  
21 describes in her report.

22 Stab wound number one is on the right chest. That  
23 stab wound is approximately half an inch deep and has a  
24 downward direction.

25 Stab wounds two and three are on the left upper



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1 chest, each one is approximately two inches deep, and both  
2 have a downward direction.

3 Stab wounds --

4 Stab wound number four is the stab wound that  
5 injures the heart. It also has a downward direction and it  
6 is approximately five to six inches deep.

7 Stab wound number five injures the left lung, it's  
8 a downward direction, it's approximately five to six inches  
9 deep.

10 Stab wound number six also injures the left lung,  
11 has an upward direction and is five to six inches deep.

12 Stab wound number seven is the last one, it has a  
13 downward direction and is approximately two-and-a-half inches  
14 deep without any injury to any vital organs.

15 Q Thank you very much, Doctor. You can have a seat.

16 (Whereupon, the witness resumed the witness  
17 stand.)

18 MS. CHU: Can I just have one moment, your  
19 Honor?

20 (Whereupon, there was a brief pause in the  
21 proceedings.)

22 MS. CHU: I have no further questions.

23 THE COURT: Cross.

24 MR. WALENSKY: Sergeant, can you please slide  
25 this?

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1 CROSS-EXAMINATION

2 BY MR. WALENSKY:

3 Q Good afternoon, Doctor.

4 A Good afternoon.

5 Q Now, do any photos of this autopsy exist?

6 A Yes.

7 Q Did you view these photos?

8 A I did.

9 Q Do you have any of them with you?

10 A No, I do not.

11 Q Now, you didn't do this autopsy, of course?

12 A No, I did not. I was present the day that Dr.  
13 Frederic did the autopsy but I did not personally perform the  
14 autopsy.

15 Q Were you present at the autopsy?

16 A Yes, I was.

17 Q Did you review the autopsy as it was being done?

18 A Yes.

19 I didn't have a very specific recollection of it.

20 It was a couple of years ago.

21 Q Essentially that's my question. You don't have a  
22 recollection, so you're working off the report of Dr.  
23 Frederic?

24 A And the pictures, correct.

25 Q And the pictures.

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1 Now, Ms. Chu was asking you about how a stab wound  
2 could have happened, essentially, right?

3 She said if somebody is stabbing this way, would  
4 it create this type of wound, meaning up to down, side to  
5 side?

6 THE COURT: You objected to that. Sustained.

7 MR. WALENSKY: Some of the first part was.  
8 The last part was --

9 THE COURT: She was asked --

10 Why don't you limit it to the direction.

11 Q Well, Doctor, your training doesn't --

12 You weren't trained in knowing how wounds are --  
13 how somebody obtains a wound, correct?

14 MS. CHU: Objection.

15 THE COURT: Sustained.

16 MR. WALENSKY: I will withdraw it.

17 Q You didn't receive --

18 It appeared when --

19 THE COURT: How do you determine the  
20 direction?

21 THE WITNESS: The direction is determined by  
22 examining the path of the wound inside the body. So,  
23 when we state that a stab wound goes from front to back,  
24 left to right and upwards, it means that from the skin,  
25 the path and the track of the injuries are in that

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1 direction, it suggests the direction of the blade as it  
2 enters the body.

3 Q That is what your training is, it's the direction  
4 the blade might be?

5 A Correct.

6 Q You weren't trained in how people might be standing  
7 for wounds to be given?

8 A That's correct.

9 Q Because, Doctor, you're looking at the result of  
10 the wound, right?

11 A That's correct.

12 Q You are not looking at how the wound occurred,  
13 correct?

14 When you look at this, a knife wound has a  
15 certain -- would have a certain -- there would be a certain  
16 indication that something is caused by a knife or a sharp  
17 object, right?

18 A Correct.

19 Q And if there's a bullet wound, sometimes you will  
20 find a bullet, other times --

21 MS. CHU: Objection.

22 THE COURT: Sustained. There is no bullet  
23 here.

24 MR. WALENSKY: She's an expert. I'm asking --

25 THE COURT: I know she's an expert.

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1 MR. WALENSKY: I am asking an opinion.

2 Q Essentially, but you are giving opinions as to  
3 tracks of wounds?

4 A Correct, based on the facts that I have, that the  
5 body gives me.

6 Q So you see the result, you don't see the how, how  
7 it happened?

8 A Correct.

9 Q Thank you.

10 Regarding the toxicology report, monoacetylmorphine  
11 was not detected? That is an opiate, correct?

12 A Monoacetylmorphine is a byproduct of heroin.

13 Q And Hydrocodone, that is a synthetic painkiller?

14 A Correct.

15 Q Hydromorphone is a synthetic of morphine?

16 A Correct.

17 Q Would that be Dilaudid or something that is a brand  
18 name?

19 A I believe so, yes.

20 Q And Oxycodone is another type of synthetic --

21 THE COURT: I don't understand something.  
22 What is your question?

23 MR. WALENSKY: I'm going through -- I'm asking  
24 this of an expert witness.

25 THE COURT: Asking what about those drugs?

Dr. Scordi-Bello - People - Cross/Mr. Walensky

1 MR. WALENSKY: I am asking about what these  
2 drugs are.

3 MS. CHU: They weren't detected.

4 THE COURT: Sustained, about what these drugs  
5 are.

6 Q Doctor, I'm sorry, someone is trying to call me  
7 when they shouldn't have been.

8 Doctor, Fluoxetine is an antidepressant?

9 A Correct.

10 Q Would that be something like Prozac?

11 A Yes.

12 Q That's the generic name for Prozac?

13 A Yes.

14 Q And that's classified as an antidepressant?

15 A Correct.

16 Q And Fluoxetine is also classified as an  
17 antidepressant?

18 A It is a byproduct of Fluoxetine.

19 Q And was there a test for Seroquel?

20 A No, it was not detected.

21 Q That was classified as an antipsychotic?

22 MS. CHU: Objection.

23 Q Let me ask the second question, I'll clarify it.

24 Is that --

25 That is classified as an antipsychotic medication,

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1 isn't it?

2 MS. CHU: Objection.

3 A As well as --

4 THE COURT: As well as what?

5 THE WITNESS: An antidepressant.

6 Q That is why I said also indicated for  
7 antidepressant, for sleeplessness?

8 A Correct.

9 Q Generally, if somebody hasn't had better drugs for  
10 sleeplessness, hasn't had a prior --

11 MS. CHU: Objection.

12 THE COURT: Sustained.

13 Q Now, in this body, this person, Mr. Wilson had an  
14 ethanol level of .20?

15 A Correct.

16 Q When a person expires, metabolizing stops, doesn't  
17 it?

18 A Yes. Breakdown stops.

19 Q The breakdown stops?

20 A Yes.

21 Q So at the time of his death it was .20?

22 A Close to .20, yes.

23 Q And even after, in this case, about 35 days, almost  
24 40 days, right?

25 Now, when somebody expires, do their bowels open

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1 up?

2 A I don't understand the question.

3 Q What I mean is, if somebody dies, will they lose  
4 retention, will they defecate?

5 A Sometimes, yes.

6 Q Sometimes.

7 And sometimes urinate?

8 A Correct.

9 Q When somebody's grievously wounded, will they also  
10 sometimes defecate?

11 A Sometimes.

12 Q With the wounds that you examined on Mr. Wilson, he  
13 could have lived for five, ten, 20 minutes?

14 A I can't give you an approximate. I can't give you  
15 a specific number of minutes but they were not  
16 instantaneously lethal.

17 Q That's my question.

18 Whereas a wound to the brain might be  
19 instantaneously lethal?

20 A Yes.

21 Q But these wounds were bleeding, had something to do  
22 with loss of blood, right?

23 A Yes.

24 Q How significant the wound was to the particular  
25 vital organ, correct?



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1 A Yes.

2 Q So someone might live five, ten or 20 minutes,  
3 right? You don't have a specific way of knowing?

4 A Correct.

5 Q But it wasn't immediately fatal?

6 A Correct.

7 Q And you, of course, don't know --

8 You know that this man died from stabbing but you  
9 don't know the circumstances surrounding that, correct? You  
10 weren't a witness to this?

11 A No, I was not.

12 MR. WALENSKY: Okay.

13 Thank you very much, Doctor.

14 MS. CHU: Your Honor, I have a couple of  
15 questions.

16 THE COURT: Redirect.

17 REDIRECT EXAMINATION

18 BY MS. CHU:

19 Q Doctor, you had mentioned that none of the wounds  
20 would have been instantaneously lethal?

21 A Correct.

22 Q Now, let's talk about wounds four, five and six,  
23 the one that went to the heart and the one -- and two that  
24 went into the left lung.

25 What affect would that have had on Mr. Wilson's

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1 ability to function, his body?

2 A Wound number four went into his heart, number  
3 five and six injured his lung, so he would have been  
4 bleeding at that point so it would have impaired him at  
5 some level.

6 Q Okay.

7 Can you tell me, based upon those injuries,  
8 specifically, though, three, four, five and six stab  
9 wounds, would that have affected his ability to move around  
10 at all?

11 A It could, yes.

12 Q Okay.

13 Can you tell me, how long would it take if someone  
14 had an injury to the heart, say also Mr. Wilson, for him to  
15 actually lose consciousness?

16 MR. WALENSKY: Objection, asked and answered.

17 THE COURT: I didn't hear it before. I'll let  
18 it, if she knows.

19 Can you answer?

20 A In very general terms, I can't give you a specific  
21 number of minutes. Just as I couldn't give you a specific  
22 number of minutes, it could be a few seconds, it could be a  
23 couple of minutes.

24 Q Now, that injury to the heart in conjunction with  
25 the two stab wounds to the left lung, would that have

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1 affected his -- how long it would have taken him to actually  
2 lose consciousness from the loss of blood?

3 A The more injuries, the more blood loss, the quicker  
4 someone will lose consciousness.

5 Q Now, you were also asked some questions with regard  
6 to when someone's impaired or seriously injured, that they  
7 might defecate on themselves?

8 A Correct.

9 Q Or urinate on themselves?

10 A Correct.

11 MS. CHU: Your Honor, if I can have People's 2  
12 through 41.

13 (Whereupon, the exhibits were handed to  
14 counsel.)

15 (Whereupon, the exhibit was displayed.)

16 Q Doctor, if you can just take a look at People's --  
17 I'm sorry -- 8 in evidence.

18 If you can just tell us, I just want you to look at  
19 the pants that are in the left corner of the picture.

20 A Excuse me.

21 Q And do you see any staining on the pants?

22 A I do.

23 Q Can you tell me, in your expertise, would that  
24 staining be more consistent with feces, more consistent with  
25 blood or urine?

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1 MR. WALENSKY: Objection.

2 THE COURT: Want some water?

3 THE WITNESS: Yes, please.

4 MR. WALENSKY: Objection, 'cause this is  
5 really a guess, it's beyond looking at -- looking at a  
6 stain as posted.

7 THE COURT: She will answer whether she can  
8 respond to the question.

9 A The staining that you indicated is somewhat light  
10 in color so I think, in my opinion, it's not consistent with  
11 blood, it would be more consistent with urine or it could be  
12 more consistent with diluted feces, but it's too light to be  
13 blood.

14 MS. CHU: Okay. Thank you, very much, Doctor.  
15 I have nothing further.

16 THE COURT: Any recross?

17 MR. WALENSKY: No, nothing further.

18 Thank you very much, Doctor.

19 THE COURT: Thank you, Doctor.

20 THE WITNESS: Thank you.

21 (Whereupon, Dr. Scordi-Bello stepped down from  
22 the witness stand and exited the courtroom.)

23 THE COURT: Come on up.

24 (Whereupon, a sidebar discussion was held off  
25 the record.)

## Proceeding

1 THE COURT: We'll take a very short recess,  
2 ladies and gentlemen, ten minutes.

3 Do not discuss the case amongst yourselves or  
4 with anyone else.

5 (Whereupon, the Jury exited the courtroom.)

6 THE COURT: All right, ten minutes.

7 (Whereupon, a brief recess was held.)

8 THE CLERK: Case back on trial continues.  
9 All parties present, defendant present with her  
10 attorney.

11 MR. WALENSKY: Your Honor, I don't anticipate  
12 speaking anymore about any psychiatric condition of the  
13 decedent unless something is opened up and I would be  
14 permitted to under the case law. But I spoke to Ms.  
15 Chu, you see in evidence is already pictures of the  
16 pills on the floor and the Seroquel bottle, which is why  
17 this was delayed for months as we got the medical  
18 reports, with DNA blood samples taken from that bottle  
19 which are matched to Mr. Wilson, so the fact that there  
20 was a Seroquel bottle, without mentioning as to why, and  
21 39 pills which were in fact vouchered, is relevant and I  
22 think when --

23 THE COURT: What is it relevant to?

24 MR. WALENSKY: In summation --

25 THE COURT: What is it relevant to?

## Proceeding

1 MR. WALENSKY: -- I can bring up what was  
2 found in the apartment.

3 THE COURT: So bring that up.

4 MR. WALENSKY: That is all. Because rather  
5 than open my mouth and have objections sustained, I  
6 wanted you to know.

7 THE COURT: I am not trying your case. You  
8 want to make an objection, you make an objection.

9 MR. WALENSKY: I'm meaning, you know, if the  
10 Court sustains it on their own, if I mention the word  
11 Seroquel, I'm afraid --

12 THE COURT: You were mentioning things that  
13 were not found in her body -- in his body.

14 MR. WALENSKY: I understand.

15 THE COURT: That's the reason I sustained the  
16 objection.

17 MR. WALENSKY: I understand. But --

18 THE COURT: I understand, too, why you were  
19 doing this, so, all right. All right.

20 Get the jury, please.

21 Who is your next witness?

22 MS. CHU: Detective Scandole.

23 THE COURT: Scandole.

24 COURT OFFICER: Ready for the jury?

25 THE COURT: Yes.

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1 COURT OFFICER: Jury entering.

2 (Whereupon, the Jury entered the courtroom.)

3 THE CLERK: All the jurors are present and  
4 seated.

5 Do both sides waive the roll call?

6 MS. CHU: Yes.

7 THE CLERK: Mr. Walensky?

8 MR. WALENSKY: Yes.

9 THE COURT: Call your next witness.

10 MS. CHU: The People call Christopher  
11 Scandole.

12 COURT OFFICER: Ready for the witness?

13 THE COURT: Yes.

14 (Whereupon, Detective Christopher Scandole  
15 entered the courtroom and took the witness stand.)

16 THE CLERK: Raise your right hand.

17 Do you solemnly swear or affirm that the  
18 testimony you're about to give will be the truth, the  
19 whole truth and nothing but the truth, so help you  
20 God?

21 THE WITNESS: Yes, I do.

22 THE CLERK: Please state your name for the  
23 record.

24 THE WITNESS: Detective Christopher Scandole.

25 THE CLERK: Give your shield and command,

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1 please.

2 THE WITNESS: 5735, Brooklyn North Homicide  
3 Squad.

4 THE CLERK: Thank you.

5 THE COURT: Proceed.

6 MS. CHU: Thank you.

7 C H R I S T O P H E R S C A N D O L E, Detective,  
8 Shield No. 5735, Brooklyn North Homicide Squad, New  
9 York City Police Department, called as a witness by  
10 and on behalf of the People of the State of New  
11 York, after having been first duly sworn, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. CHU:

15 Q Good afternoon, Detective.

16 A Good afternoon.

17 Q How long have you been with the New York City  
18 Police Department?

19 A Approximately 27 years.

20 Q And you said you're currently assigned to Brooklyn  
21 North Homicide. How long have you been there?

22 A Approximately ten years.

23 Q Now, can you tell us about your career with the  
24 N.Y.P.D. starting from when you get out of the Academy?

25 A I worked on patrol in the 79th Precinct, then I



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1 worked in the Brooklyn North Narcotics Unit. From the  
2 Narcotics Unit I was assigned back to the 79th Precinct  
3 Detective Squad, from the 79th Detective Squad I was assigned  
4 to the Brooklyn North Homicide Squad.

5 Q Can you tell me, directing your attention to  
6 January 3rd, 2012, were you working as a detective in the  
7 Brooklyn North Homicide?

8 A Yes, I was.

9 Q Can you tell me, what hours did you work that day,  
10 if you remember?

11 A I believe I was doing a day tour, which I believe  
12 would be 8:00 to 4:00.

13 Q Did there come a time on that day that you became  
14 involved in an investigation into the death of a person by  
15 the name of Anthony Wilson?

16 A Yes.

17 Q And how was it that you became involved in the  
18 case?

19 A I was notified by detectives from the 83rd  
20 Precinct Detective Squad that there was a death to be  
21 investigated.

22 Q Now, what is your role as a homicide detective when  
23 there's a homicide in a precinct?

24 A We assist the precinct detective squad detectives  
25 in investigating their homicides.

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1 Q Who was assigned to the 83rd Precinct to  
2 investigate this homicide?

3 A Detective Hernandez.

4 Q Now, did you actually respond to the scene?

5 A I did.

6 Q Can you tell me what time you got there?

7 A About 2:00 P.M.

8 Q Now, when you arrived, did you observe anyone  
9 injured there?

10 A Yes.

11 Q And who was that?

12 A That was Anthony Wilson.

13 Q Was he already -- I'm sorry.

14 What was his condition when you arrived?

15 A He was already deceased.

16 Q Now, during the course of your investigation did  
17 you or your fellow detectives speak with any witnesses?

18 A Yes.

19 Q And based upon your investigation, did there come a  
20 time when you began to look for anyone in particular?

21 A Yes.

22 Q Who was that?

23 A Atara Wisdom.

24 Q How soon after January 3rd, 2012, were you looking  
25 for Ms. Wisdom?

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1 A That was late March of 2012.

2 Q Now, was an investigative card prepared for Miss  
3 Wisdom?

4 A Yes, it was.

5 Q What is an investigative card?

6 A It's a form that is filled out and entered into  
7 the Police Department's databases that the investigating  
8 detectives will be notified if the person has any police  
9 contact, such as an arrest or summons on a name check.

10 Q What date was that prepared?

11 A That was on April 2nd.

12 Q I want to direct your attention to July 2012. Did  
13 there come a time that you were notified that Ms. Wisdom had  
14 been located?

15 A Yes.

16 Q And can you tell me, how did you learn of this  
17 information?

18 A We conducted a check of the New York City  
19 Department of Homeless Services shelters, we found her to be  
20 a resident of one of the women's shelters.

21 Q When was it you found out this information?

22 A That was on July 24th.

23 Q Of 2012?

24 A 2012.

25 Q Did there come a time when you actually went to the

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1 women's shelter?

2 A Yes, on July 25th, 2012.

3 Q What time?

4 A About 9:45 A.M.

5 Q And were you with anybody when you went to that  
6 location?

7 A I was with Detective Collins.

8 Q Now, did there come a time when you saw Atara  
9 Wisdom?

10 A Yes.

11 Q Can you tell me, what did you do when you saw her?

12 A We asked her to accompany us back to the 83rd  
13 Precinct Detective Squad.

14 Q I ask you to look around the courtroom today and  
15 see if you see the person that was identified to you as Atara  
16 Wisdom here.

17 A Yes, I do.

18 Q Can you just point to her and indicate something  
19 that she is swearing?

20 A She's sitting at the table wearing the brown shirt  
21 (indicating).

22 THE COURT: Indicating the defendant.

23 Q Thank you.

24 Now, where did you bring Ms. Wisdom?

25 A To the 83rd Precinct Detective Squad.

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1 Q Where did you place her?

2 A In an interview room.

3 Q Now, where is the 83rd Precinct Detective Squad  
4 within the precinct?

5 A On the second floor of the building.

6 Q Now, you said you brought her into the interview  
7 room?

8 A Yes.

9 Q Was she handcuffed?

10 A No.

11 Q Was she handcuffed leading up to getting into that  
12 room?

13 A No.

14 Q Now, was anyone else present when you brought her  
15 back to the precinct?

16 A Yes, myself and Detective Collins.

17 Q Now, did there come a time, once she was back at  
18 the precinct, that you spoke with her?

19 A Yes.

20 Q And before you spoke with her did you read her what  
21 are commonly known as Miranda rights?

22 A Yes, I did.

23 Q How were you able to read the Miranda rights to  
24 her?

25 A I read them from a preprinted form.

Det. Scandole - People - Direct/Ms. Chu

1 Q Now, do you have the rights that you read to Miss  
2 Wisdom on July 25th, 2012, with you today?

3 A I do.

4 MS. CHU: At this time, your Honor, if I  
5 can have them deemed marked People's 54 for  
6 identification.

7 (Whereupon, the Miranda rights was marked as  
8 People's Exhibit 54 for identification.)

9 MS. CHU: Mr. Walensky, do you want to see  
10 it?

11 MR. WALENSKY: I've seen it, thank you.

12 Q Detective, looking at People's 53 for  
13 identification, do you recognize -- I'm sorry -- 54 for  
14 identification, do you recognize that item?

15 A I do.

16 Q What is that?

17 A This is the form I used to read the Miranda rights  
18 to Ms. Wisdom and to record her answers.

19 Q Now, can you tell me, were any markings made on the  
20 Miranda rights at the time that you read them to Miss Atara  
21 Wisdom?

22 A No.

23 Q No markings were made on it?

24 A I made the markings as I was reading them.

25 Q You made the markings?

Det. Scandole - People - Direct/Ms. Chu

1 A Yes.

2 Q Did Ms. Wisdom make any markings on that Miranda  
3 rights sheet that you have?

4 A She signed her name to it.

5 MS. CHU: Okay.

6 At this time, your Honor, I would offer that  
7 in evidence as People's 54.

8 MR. WALENSKY: No objection.

9 THE COURT: In evidence.

10 (Whereupon, the Miranda rights was marked as  
11 People's Exhibit 54 in evidence.)

12 Q Now, Detective, would you please demonstrate the  
13 manner in which you read Miss Wisdom her Miranda rights,  
14 including any answers she gave to your questions.

15 A You have the right to remain silent and refuse to  
16 answer questions.

17 Do you understand?

18 She answered "yes" and I wrote down "yes."

19 THE COURT: Slow down.

20 A Sorry.

21 THE COURT: She has to take it down.

22 A Anything you say may be used against you in a court  
23 of law.

24 Do you understand?

25 She answered "yes" and I wrote down "yes."

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1           You have the right to consult an attorney before  
2 speaking to the police, also have an attorney present during  
3 any questioning now or in the future.

4           Do you understand?

5           She answered "yes" and I wrote down "yes."

6           If you cannot afford an attorney, one will be  
7 provided for you without cost.

8           Do you understand?

9           She answered "yes" and I wrote down the word "yes."

10          If you do not have an attorney available, you have  
11 the right to remain silent until you have had an opportunity  
12 to consult with one.

13          Do you understand?

14          She answered "yes" and I wrote down "yes."

15          Now that I've advised you of your rights, are you  
16 willing to answer questions?

17          She answered "yes," I wrote down "yes."

18          Q     What did you do next?

19          A     Then I asked her to sign the form, then myself and  
20 Detective Collins signed the form as well.

21          Q     Okay.

22          Can you tell me, after she signed the form, did she  
23 speak with you?

24          A     Yes.

25          Q     And can you tell me, how did the conversation begin



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1 with you and Ms. Wisdom?

2 A It was more of a conversation, a back and forth  
3 type of asking questions about what's going on.

4 We started by telling her the investigation of the  
5 incident that we are investigating, of what had happened and  
6 how we had come to where we were.

7 Q Did you tell her who the victim was?

8 A Yes.

9 Q Okay.

10 Can you tell me, did the conversation then become  
11 more question and/or answer? Did she give a narrative?

12 A It evolved into more of a narrative.

13 Q Can you tell us what, in sum and substance,  
14 happened after you read her Miranda rights?

15 A Yes. Can I refer to my DD5 briefly?

16 THE COURT: You could refresh your  
17 recollection but then you cannot read it.

18 THE WITNESS: I am not going to read from  
19 it.

20 A She told me she had lost her place to live and that  
21 she had moved with this man she had met by the doctor's  
22 office on Broadway. She said she would give him money from  
23 time to time for rent, when she had. She told us that he was  
24 a crack user and that when he smoked crack he became a  
25 completely different person.

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1 One night, while she was sleeping, she told us that  
2 she was woke up to find him touching her underneath her  
3 shirt. She told him, you know we're not -- we are not like  
4 that, that is not why I'm here, and they got into an  
5 argument, it became rather heated.

6 She left the apartment. She called one of her  
7 friends on the telephone and she calmed down after that.

8 A while later, which I believe was around  
9 Thanksgiving time, she had gotten into another argument with  
10 him that became loud and heated again. She left the  
11 apartment again this time and she went to stay with her  
12 sister for a couple of days.

13 She had spoken to him on the phone a couple of  
14 times and then she had to go back because she had set up an  
15 interview, she needed to get some clothes out of the  
16 apartment.

17 When she went back, everything was okay, he was  
18 nice, it was like when they had first met, there was no  
19 problems.

20 Later that night, the same day, she was sitting on  
21 the couch getting her clothes and he says to her, I am going  
22 to get some pussy tonight. She says, well, okay, then I'll  
23 get out of here. And he steps in front of the doorway and  
24 says, uh-uh. At that point she tells us that he picks up a  
25 belt and starts wrapping the belt around his hand. At that

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1 point she said, I picked up a knife and I put it inside my  
2 sweater.

3 She went to get up off the couch, then he punched  
4 her in the face. After he punched her in the face, he  
5 grabbed her sweater and she says he pulled the sweater over  
6 her head and started punching her in the shoulders and in the  
7 back.

8 While he was punching her, she said he was pushing  
9 her head towards the ground. As he is pushing her head  
10 toward the ground, if my head hits the ground, thinking to  
11 herself, I'm dead, and I stabbed at him.

12 She said she then ran into the bathroom, she saw  
13 she had a big knot on her head and some bruises on her  
14 shoulders. She came out, gathered her stuff into a duffle  
15 bag and then she left and went to her friend Ebony's house.

16 Q As she made the statement, did you interrupt her  
17 while she was talking to ask her any further questions?

18 A Initially we were going back and forth. At the end  
19 she told us the story as to what happened.

20 Q Did you take any notes while you were in the room  
21 with her?

22 A I did not.

23 Q Was anyone else present when you had this  
24 conversation with her?

25 A Yes, Detective Collins.

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1 Q After she made the statement, did there come a time  
2 when you left the room that she was in?

3 A Yes.

4 Q And was she still uncuffed? At this point she  
5 didn't have cuffs on?

6 A Yes.

7 Q Now, where did you -- I'm sorry.

8 Did there come a time when you actually transcribed  
9 or wrote down what it is you remember her telling you?

10 A Yes.

11 Q Did you take that handwritten statement and bring  
12 it back into the room with you?

13 A I did.

14 Q About what time was it that you did this?

15 A That was at about 7:30 P.M.

16 Q Now, when you initially spoke to her and read her  
17 Miranda then got that oral statement, about what time was  
18 that?

19 A It was about 2:00 P.M.

20 Q Now, can you tell me, when you went back in at 7:30  
21 and you had the written statement, what did you do?

22 A I read it to her, then I gave it to her to read,  
23 she read it, I asked her is this accurate to what you told  
24 us, she said yes, she signed it, I signed it and Detective  
25 Collins signed it.

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1 Q Did she want to make any additions or corrections  
2 to what you had wrote as far as what she had said earlier  
3 that afternoon?

4 A No, she did not.

5 Q Now, do you have what you wrote out summarizing  
6 what she told you in her oral statement?

7 A I do.

8 MS. CHU: At this time, your Honor, if I can  
9 have that deemed marked as People's 55 for  
10 identification.

11 THE COURT: 55? I thought we did --

12 COURT OFFICER: That was 54.

13 THE COURT: 54.

14 (Whereupon, the written statement was marked  
15 as People's Exhibit 55 for identification.)

16 Q Detective, do you recognize what is being shown to  
17 you as People's 55 for identification?

18 A I do.

19 Q What do you recognize that to be?

20 A These are my notes, my written statement, my  
21 written statement of what she told me.

22 Q And does it accurately reflect the signature that  
23 you placed on it on July 25th, 2012?

24 A It does.

25 Q Does it also contain Atara Wisdom's signature and

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1 Detective Collins' signature?

2 A Yes, it does.

3 MS. CHU: At this time, your Honor, I would  
4 offer that in evidence as People's 55.

5 MR. WALENSKY: No objection.

6 (Whereupon, the written statement was marked  
7 as People's Exhibit 55 in evidence.)

8 Q Detective, --

9 THE COURT: Wait a minute.

10 (Whereupon, there was a brief pause in the  
11 proceedings.)

12 THE COURT: Go ahead.

13 Q Detective, if you would, would you please read to  
14 us what you wrote as her statement and had her eventually  
15 sign for accuracy.

16 A I had lost my place to stay and I moved in with  
17 this guy that I met over by the doctor's office, Broadway.

18 THE COURT: Slow down.

19 A Sorry.

20 THE COURT: Go ahead.

21 A I was giving him some money when I could. He's a  
22 crack user. When he smokes crack he's like a different  
23 person.

24 One night, when I was sleeping, I woke up and I  
25 found him touching me under my shirt. I told him we aren't

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1 like that and that is why I am not here. We argued and we  
2 got really heated. I left out and I called one of my friends  
3 on the phone and I calmed down.

4 A little while later, right around Thanksgiving  
5 time, we got into another argument that got real heated and  
6 loud. I left and I went to my sister's house for a couple of  
7 days. I talked to him on the phone a couple of times and I  
8 went back to get my clothes because I had an interview set up  
9 for the next day. When -- when I got there he was okay, nice  
10 like when I first met him. Later that night I'm on the couch  
11 getting my clothes and he tells me I'm getting some pussy  
12 tonight. I tell him okay, then I'll get out of here.

13 He stands in front of the door and he says uh-uh,  
14 then he picks up a pink belt and he wraps it around his hand.  
15 When he did that, I picked up the knife and I put it in my  
16 sweater. When I got up, he punched me in the face, then he  
17 pulled the sweater over my head and he started punching me in  
18 the shoulder and back.

19 As he's punching me, he's pushing my head to the  
20 ground and I'm thinking if my head hits the ground, I'm dead.  
21 That is when I took out the knife and I stabbed at him.

22 I ran into the bathroom and I see I have a big knot  
23 on my head and my shoulder is all bruised.

24 I got all my stuff together in a duffel bag and I  
25 left out to go to Ebony's house. I didn't tell Ebony what

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1 happened and I didn't tell anyone else what happened.

2 Q Okay.

3 Detective, after she signed the written statement  
4 that you wrote out for her, can you tell me, did you ask her  
5 whether or not she would like to speak to someone from the  
6 District Attorney's Office?

7 A I did.

8 Q And what was her response?

9 A She did agree.

10 Q Now, once she agreed to do that, did you make  
11 arrangements for someone from the District Attorney's Office  
12 to come to your precinct?

13 A I did.

14 Q And who was it that arrived?

15 A Assistant District Attorney Ed Purce.

16 Q What time was it that she spoke with Ed Purce on  
17 July 25th, 2012?

18 A It was about 9:00 P.M.

19 Q Now, did there come a time the following day, July  
20 26th, now of 2012, at about 10:00 in the morning that you  
21 went to speak with her again?

22 A Yes, I did.

23 Q What was your purpose?

24 A I just had a couple of quick questions to --  
25 follow-up questions for her.



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1 Q Was anyone else present with you when you spoke  
2 with her?

3 A I was with Detective Collins.

4 Q Now, when you first came into the room, she was  
5 still in the same room that you had spoken to her in  
6 earlier?

7 A Yes.

8 Q And was she handcuffed at all?

9 A No.

10 Q What did you say to her?

11 A I reminded her yesterday that we read her rights  
12 and she agreed to speak to us, it was okay, and we want to  
13 ask her a couple more questions.

14 Q What did she say?

15 A She said okay.

16 Q What did you do?

17 A I asked her about the victim's property, his phone  
18 and such.

19 She said that after it happened, after I stabbed  
20 him, I came out of the bathroom and I saw him laying on the  
21 bed, I picked up his phone, his keys and his wallet. When I  
22 left, I was on the phone talking to somebody but I was in a  
23 bit of a fog, I don't remember who I was talking to.

24 As I was walking, I threw away his keys but I kept  
25 his wallet and I didn't use it. I went over to my friend

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1 Tiffany's house, which was by East 93rd and Rutland Road and  
2 I stayed there for a couple of days.

3 I continued to use the phone for a little while but  
4 then I threw that away also.

5 Then I directly asked her if she had used Mr.  
6 Wilson's benefits card, she said absolutely not.

7 MS. CHU: Thank you very much, Detective. I  
8 have nothing further.

9 CROSS-EXAMINATION

10 BY MR. WALENSKY:

11 Q Good afternoon, Detective.

12 A Good afternoon.

13 Q On July 25th, 2012, you went into a woman's shelter  
14 and asked Ms. Wisdom to accompany you, correct?

15 A Yes.

16 Q And you took her back to the 83rd?

17 A Yes.

18 Q And you put her into, I call it an interrogation  
19 room, you call it an interview room, right?

20 A Yes.

21 Q This is where you question, you speak to people,  
22 right?

23 A Yeah.

24 Q Some are suspects, some aren't?

25 A Yes.

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1 Q And there's a rail --

2 There's generally a bench alongside one wall of  
3 this room, correct?

4 A There's a bench in the room, yes.

5 Q There is usually a rail. I am not saying Ms.  
6 Wisdom, but sometimes people are cuffed there, right?

7 A Yes.

8 Q That's up to the discretion of the officer?

9 A Yes.

10 Q But you didn't see any danger at that time so you  
11 didn't cuff her?

12 MS. CHU: Objection.

13 THE COURT: Overruled.

14 A I did not cuff her.

15 Q Now, she was in that room from the time you got  
16 back to the precinct about 10:00, quarter after 10:00?

17 A Yes.

18 Q And about eleven o'clock you went in to speak to  
19 her about her Miranda rights?

20 A Yes.

21 Q So she's in there for 45 minutes, no one's talking  
22 to her, right?

23 A Approximately.

24 Q There's no clock in that room, is there?

25 A I don't believe so.

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1 Q And the door is locked, she can't walk out?

2 A Correct.

3 Q But she wasn't arrested yet?

4 A She had not been placed under arrest at that time,  
5 right.

6 Q But she wasn't free to go?

7 A No.

8 Q So at eleven o'clock you came in.

9 Now, you control that environment, don't you?

10 MS. CHU: Objection. What does that mean?

11 Q Well, she can't leave, right?

12 MS. CHU: Objection. Asked and answered.

13 THE COURT: Overruled.

14 A Right.

15 Q You control that whole environment?

16 MS. CHU: Objection.

17 THE COURT: Overruled.

18 Q Now, you come in and talk to her. What did you  
19 tell her? What did you ask her -- withdrawn.

20 Let me ask one question.

21 What did you tell her?

22 A We introduced ourselves and told her the incident  
23 that we are investigating.

24 Q And you then asked her if she would speak with you,  
25 correct?

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1 A Yes.

2 Q And then you presented her with the Miranda  
3 warnings which are in evidence?

4 A Yes, we read her the warnings, yes.

5 Q And she initialed them?

6 A No, she signed it. She signed her name.

7 Q All right, she signed it.

8 And you proceeded to speak with her, correct?

9 A Yes.

10 Q And you spoke with her from 11:00 for several  
11 hours, didn't you?

12 A Yes.

13 Q So from 11:00 to 12:00 to 1:00 to 2:00 you were  
14 questioning her?

15 A Yes.

16 Q And during that period of time she never asked for  
17 an attorney?

18 A No.

19 Q And you got that statement, it was three hours? It  
20 took you three -- actually, didn't you talk to her even  
21 longer than two o'clock?

22 A No, about two o'clock we got the statement.

23 Q So it took three hours to get that information?

24 A Yes.

25 Q So it --

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1           Wasn't there prompting by you to pull more  
2 information from Ms. Wisdom?

3           A     If by "prompting" you mean asking and answering  
4 questions, yes.

5           Q     Yes.

6                 Well, she didn't just immediately tell you all of  
7 this?

8           A     No. It was a process of asking and answering  
9 questions and it evolved into this.

10          Q     She was volunteering this information? She said  
11 she wanted to and you wanted to speak with her, right?

12          A     Yes.

13          Q     And you said what happened, correct?

14          A     Well, it didn't start out with just what happened.  
15 It started, we talked about the incident, we talked about who  
16 the victim was, where it was it happened.

17          Q     That takes about five minutes, right?

18                 You said, we are investigating the death of Anthony  
19 Wilson, isn't that what you told her?

20          A     Yeah.

21          Q     We think it happened around Thanksgiving, sometime  
22 around there?

23          A     Yes.

24          Q     It didn't take much longer than that?

25          A     It took a while to get the information because it

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1 was -- first it wasn't just -- she didn't come out right away  
2 and tell us the whole story, it was asking questions back and  
3 forth, and you know.

4 Q At some point she said, I don't really want to talk  
5 about it, correct?

6 MS. CHU: Objection.

7 THE COURT: Overruled.

8 A That was later that evening.

9 Q You don't videotape these question and answer  
10 periods, do you?

11 A No, we do not.

12 Q You are not required?

13 A No, we are not.

14 Q You have the capacity to do it?

15 MS. CHU: Objection.

16 A No, we --

17 Q You had the capacity to take the statement later,  
18 didn't you?

19 THE COURT: Overruled.

20 A The District Attorney's Office took the statement.

21 Q Right.

22 But while --

23 Before the District Attorney's office comes to  
24 question her, you're questioning her and that is not  
25 recorded?

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1 A Correct.

2 Q So about 5:30, give or take 15, 20 minutes, you  
3 placed her under arrest, correct?

4 A One of the detectives.

5 Q One of the detectives.

6 And was it three o'clock you asked her if she  
7 wanted to make a video statement?

8 A No.

9 Q Was it after you placed her under arrest at  
10 5:30?

11 A No.

12 Q Was it before that?

13 A No. It was when I went over her -- the written  
14 statement with her.

15 Q So two hours after -- so four-and-a-half hours  
16 after she made the oral statement you came in with this  
17 written statement, correct, at 7:30?

18 A Yes.

19 Q And she has been in that room since 10:00, 10:30  
20 that morning, other than perhaps going to the bathroom,  
21 right?

22 A Yes.

23 Q And you fed her?

24 A Yes.

25 Q So you brought in the statement. This was a



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1 statement that you had written out?

2 A Correct.

3 Q That was based upon your conversations earlier?

4 A Correct.

5 Q It wasn't written contemporaneously with the  
6 conversation you had with her at 2:00 or 3:00 in the  
7 morning -- I'm sorry -- in the afternoon, correct?

8 A No, it was not.

9 Q Correct me, between --

10 A Correct?

11 Q -- 11:00 and 3:00.

12 And at 7:30 you came in and presented this written  
13 statement, asked her to read it?

14 A Yes.

15 Q So she had already been there for almost ten hours,  
16 right, from 10:30 to 7:30, however long that is?

17 A Yes.

18 Q And she signed that statement, correct?

19 A Correct.

20 Q And at that particular point in time you didn't  
21 take her to Central Booking, did you?

22 A No.

23 Q Now, was there an I-card out for Ms. Wilson -- I  
24 mean Ms. Wisdom -- prior to that date?

25 A To the date that we spoke to her?

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1 Q Yes.

2 A Yes.

3 Q Now, an I-card is what is called a wanted card?

4 A Yes.

5 Q When you have an I-card out, it's because she was a  
6 suspect, correct?

7 A Yes.

8 Q She was a suspect for months, wasn't she?

9 A Yes.

10 Q Now, you don't get a warrant for her arrest  
11 because if you get a warrant you couldn't question her,  
12 right?

13 MS. CHU: Objection. Objection.

14 THE COURT: Read the question back.

15 (Whereupon, the referred-to question was read  
16 back by the Reporter.)

17 THE COURT: I don't know --

18 MR. WALENSKY: I will reask.

19 THE COURT: -- in what context this is being  
20 asked.

21 Sustained.

22 Q So there was an I-card, right?

23 A Yes.

24 Q With a wanted card you can take someone and  
25 question them, correct?

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1 A Yes.

2 Q And with a warrant of arrest right to counsel  
3 immediately attaches, doesn't it?

4 MS. CHU: Objection.

5 THE COURT: Objection is sustained.

6 Q So at 7:30 she signed that. Was it at that point  
7 you asked her if she wanted to make a video statement?

8 A Yes.

9 Q Then you called the District Attorney's Office?

10 A Correct.

11 Q Had you called the District Attorney's Office  
12 before 7:30?

13 A Yes.

14 Q And did you speak with Mr. Purce at that time?

15 A I don't recall who I spoke to at the D.A.'s Office.  
16 I recall just informing them of the events that were  
17 proceeding.

18 Q So 7:30, did you leave the room at that point?

19 A Yes.

20 Q After she signed?

21 A Yes.

22 Q And she's sitting there till Mr. Purce arrives?

23 A Yes.

24 Q And that's about 9:00 or 9:30?

25 A About 9:00.

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1 Q About nine o'clock?

2 A Yes.

3 Q And then Mr. Purce takes a statement, right?

4 A Yes.

5 Q And she's speaking and then she becomes upset,  
6 doesn't she?

7 A Yes.

8 Q And Mr. Purce says, we can stop, if you want,  
9 right?

10 A Something to that effect.

11 Q Something to that effect?

12 A Yes.

13 Q And she wants to stop, right?

14 A Yes.

15 Q And after that you don't take her to Central  
16 Booking at that point either, do you?

17 A No.

18 Q She's -- she's been placed under arrest, she's  
19 made -- she signed a written statement which you had produced  
20 and she's made a videotape but you still had more questions,  
21 right?

22 MS. CHU: Objection, compound question.

23 THE COURT: Sustained.

24 Q So at 9:00 -- I'm sorry.

25 Whenever this ended, you put her back into -- did

Det. Scandole - People - Cross/Mr. Walensky

1 you put her back into the interview room?

2 A Yes.

3 Q And she was there until the next morning at about  
4 10:00 when you came in?

5 A She was in the precinct lodged overnight. I don't  
6 know exactly where she was. I wasn't there overnight.

7 Q You came the next morning at 10:00?

8 A Correct.

9 Q Was she in that interview room?

10 A Yes.

11 Q So you don't know if she was in the interview room  
12 or in a cell somewhere?

13 A Correct.

14 Q And at that point you reminded her of her Miranda  
15 rights which she had signed the day before?

16 A Yes.

17 Q Almost exactly a little less than a day before.

18 You didn't read her Miranda rights again?

19 A I did not.

20 Q You just said, you remember the rights yesterday  
21 when you signed?

22 A Yes.

23 Q And then you asked her to talk to you some more?

24 A Yes.

25 Q And then you asked her some more questions?

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1 A Yes.

2 Q She still didn't ask for a lawyer, in all that  
3 time?

4 A No, she did not.

5 Q She was wearing the same clothes?

6 A Yes.

7 Q Did she make any calls?

8 MS. CHU: Objection.

9 THE COURT: Did you make any calls?

10 THE WITNESS: I did not.

11 Q Did she.

12 Did Ms. Wisdom make any phone calls?

13 THE COURT: Do you know?

14 A I do not know.

15 Q Did you ask her if she wished to make any phone  
16 calls?

17 A I did not.

18 Q Did she ask you if she wished to make any phone  
19 calls -- withdrawn.

20 So, to your knowledge, she did not call anybody  
21 during that period of time?

22 A Not that I know.

23 Q And nobody offered to allow her to make a phone  
24 call?

25 MS. CHU: Objection.

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1 THE COURT: Sustained. He doesn't know.

2 Q You didn't offer her the chance to make a phone  
3 call, did you?

4 MS. CHU: Objection. Asked and answered.

5 Q Did you give her --

6 Did you make an offer for her to make a phone call?

7 MS. CHU: Objection.

8 Q Would you like to make a call?

9 MS. CHU: Objection. Asked and answered.

10 THE COURT: Did you, yes or no?

11 A No.

12 MR. WALENSKY: Thank you. Thank you,  
13 Detective.

14 THE COURT: Do you have any redirect?

15 MS. CHU: I do not have any questions.

16 THE COURT: You may step down. Thank you.

17 (Whereupon, Detective Christopher Scandole  
18 stepped down from the witness stand and exited the  
19 courtroom.)

20 THE COURT: Call your next witness.

21 MS. CHU: The People call Ed Purce.

22 (Whereupon, there was a brief pause in the  
23 proceedings.)

24 COURT OFFICER: Witness entering.

25 (Whereupon, Ed Purce entered the courtroom and

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1 took the witness stand.)

2 THE CLERK: Raise your right hand.

3 Do you solemnly swear or affirm that the  
4 testimony you're about to give will be the truth, the  
5 whole truth and nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Please state your name for the  
8 record.

9 THE WITNESS: Ed Purce, P-U-R-C-E.

10 THE CLERK: Thank you.

11 THE COURT: Proceed.

12 E D P U R C E, called as a witness by and on behalf  
13 of the People of the State of New York, after  
14 having been first duly sworn, was examined and  
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. CHU:

18 Q Good afternoon, Mr. Purce.

19 A Good afternoon.

20 Q By whom are you employed?

21 A The Office of the Kings County District Attorney.

22 Q What is your title?

23 A I'm a Deputy Chief in the Domestic Violence Bureau.

24 Q Can you tell us about your career with the D.A.'s  
25 Office; how long have you been there?



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1           A     I started in September '98 and then I went through  
2 a rotation where I worked in Criminal Court for about a year,  
3 I worked in the Grand Jury for about a year, then I did  
4 what's called a riding program where we would go out with the  
5 police and enhance cases, you work like a 24-hour shift, get  
6 statements, if defendants wanted to make statements, you  
7 would interview witnesses to crimes and just work, you know,  
8 hand to hand with the police, maybe do a search warrant or  
9 things of that nature. And then for about ten years I worked  
10 under the Domestic Violence Bureau where I tried cases for  
11 about ten years, starting with some of the misdemeanor cases  
12 then I ended up doing homicide trials.

13                 Then for about two-and-a-half years I was in the  
14 Homicide Bureau where I tried homicide cases. And then, just  
15 very recently, I went back to Domestic Violence as a  
16 supervisor.

17           Q     Can you tell me, in the two-and-a-half years that  
18 you were in the Homicide Bureau are you familiar with a  
19 program that they had called the riding program?

20           A     Yes.

21           Q     And what did that entail?

22           A     It was similar to what I did when I was a younger  
23 assistant, and basically you were on call, 24-hour call, and  
24 if witnesses needed to be interviewed or if suspects in cases  
25 wanted to make statements, you would either go to the

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1 precinct where the incident occurred or to the District  
2 Attorney's Office and you would meet with the detectives and  
3 the people that they brought in to speak with whoever was  
4 riding on that particular night.

5 Q How often would you have to ride?

6 A It was like every six weeks. We had a rotation, it  
7 was like six teams, if you would, and we would do it on a  
8 six-week basis and then you would do it three days a week one  
9 time, then you would rotate and do four days a week the  
10 following part of the routine, then it would go that way  
11 throughout the year.

12 Q Now, Mr. Purce, I want to direct your attention to  
13 July the 25th, 2012.

14 Were you working as an assistant in the Homicide  
15 Bureau on that day?

16 A Yes, I was.

17 Q Can you tell me, were you assigned to ride that  
18 day?

19 A Yes, I was.

20 Q Did there come a time that evening when you were  
21 notified that you were needed in the 83rd Precinct?

22 A Yes.

23 Q Who was it that contacted you, if you remember?

24 A I think it was my supervisor, Ken Taub, and he  
25 directed me to get in touch with, I believe it was Detective

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1 Scandole from the Homicide Bureau -- Homicide Squad.

2 Q Did you do that?

3 A Yes.

4 Q Did there come a time when you actually responded  
5 to the 83rd Precinct?

6 A Yes, I did.

7 Q Can you me, when you arrived at the 83rd Precinct,  
8 did you speak with someone by the name of Atara Wisdom?

9 A Yes, I did.

10 Q Can you tell me about what time was it that you  
11 spoke with her?

12 A I am going to say it was around nine o'clock, 9:15,  
13 somewhere around there.

14 Q Okay.

15 Can you tell me, was the conversation that you had  
16 with Ms. Wisdom recorded in any way?

17 A Yes, it was.

18 Q How was that?

19 A As part of the riding program we have a team of  
20 technicians, and if somebody wants to make a statement, they  
21 generally would meet you at whichever precinct you were sent  
22 to and they would videotape the statement that was made to  
23 the Assistant District Attorney and to whomever other  
24 detectives that might also be part of the investigation.

25 Q Now, does this technician assign a unique number to

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1 the videotape that is being taken of the conversation?

2 A Yes.

3 Q Can you tell me, do you remember what the video  
4 number that was assigned to the statement that you took of  
5 Ms. Wisdom?

6 A R12 dash 83.

7 MS. CHU: At this time, your Honor, if I can  
8 have this deemed marked People's 56 for identification.

9 (Whereupon, the exhibit was shown to counsel.)

10 (Whereupon, the CD was marked as People's  
11 Exhibit 56 for identification.)

12 Q Mr. Purce, taking a look at People's 56 for  
13 identification, do you recognize that envelope?

14 A Yes.

15 Q Can you tell me, what do you recognize that  
16 envelope to be?

17 A This will contain the CD in which the recorded  
18 statement that Ms. Wisdom made on July 25th, 2012.

19 Q Does it bear the same unique video number that was  
20 assigned it by the technician on July 25th, 2012?

21 A Yes.

22 MS. CHU: Okay, at this time, your Honor, I  
23 would offer it into evidence as People's 56.

24 THE COURT: Any objection?

25 MR. WALENSKY: No, no objection.

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1 THE COURT: All right in evidence.

2 (Whereupon, the CD was marked as People's  
3 Exhibit 56 in evidence.)

4 MS. CHU: Does that work, any of the things in  
5 there?

6 THE COURT: I don't know.

7 MS. CHU: I'm sorry, your Honor.

8 Does any of this work in here?

9 THE CLERK: No, it's not working.

10 MS. CHU: I can't get it to switch over.

11 THE CLERK: There it is.

12 THE COURT: Go ahead.

13 MS. CHU: Thank you.

14 Your Honor, I'd asked it be played now for the  
15 jury.

16 THE COURT: Play it.

17 (Whereupon, the exhibit was played in open  
18 court.)

19 Q Mr. Purce, was that a fair and accurate recording  
20 of the entire conversation that you had with Miss Atara  
21 Wisdom on July 25th, 2012?

22 A Yes.

23 Q Did she ever want to speak with you -- I'm sorry.  
24 Did you ever speak with her again after that tape  
25 went off?

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1 A No, I didn't.

2 MS. CHU: Thank you very much. I have nothing  
3 further.

4 MR. WALENSKY: No questions.

5 MS. CHU: I'm sorry, did I offer it into  
6 evidence already?

7 THE COURT: Yes.

8 MR. WALENSKY: Yes.

9 THE COURT: Let me ask you something, Mr.  
10 Purce.

11 Did this video begin at 7:25 or 9:30 was it?

12 MS. CHU: It was 9:05.

13 THE WITNESS: I thought it started a little  
14 after 9:00.

15 THE COURT: 9:05.

16 MR. WALENSKY: 9:03 or 9:04.

17 MS. CHU: 9:04.

18 THE COURT: Okay. Okay. That's what I  
19 thought. All right.

20 Thank you very much, Mr. Purce.

21 THE WITNESS: Thank you.

22 (Whereupon, Ed Purce stepped down from the  
23 witness stand and exited the courtroom.)

24 THE COURT: All right, ladies and gentlemen,  
25 at this time we are going to adjourn for the day and we

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1 will not return, or you will not return till Tuesday at  
2 ten o'clock because of -- well, one of the reasons is  
3 that we do have this holiday and I did indicate that we  
4 wouldn't be meeting Thursday and Friday.

5 So, do not discuss the case amongst yourselves  
6 or with anyone else. Do not visit the place where the  
7 alleged crimes occurred. Have no contact with any of  
8 the parties involved, including the Court. And do not  
9 resort to utilizing any digital or electronic devices  
10 for obtaining any information about the matter or  
11 contacting anyone about the matter.

12 Just leave your books on the seats.

13 And have a very good 4th of July.

14 See you Tuesday, ten o'clock.

15 Thank you.

16 (Whereupon, the Jury exited the courtroom.)

17 THE COURT: All right, what are you going to  
18 do on Tuesday?

19 MS. CHU: Tuesday I anticipate that I will  
20 have my last witnesses, but we are having some  
21 difficulty locating Mr. Shepard. Hopefully this weekend  
22 we will be able to pin him down.

23 THE COURT: How many witnesses are you going  
24 to have?

25 MS. CHU: I have three witnesses left.

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1 THE COURT: Okay.

2 Defense going to have any witnesses?

3 MR. WALENSKY: I am not sure whether my client  
4 will testify, at this time, and other than that I might  
5 have one witness.

6 THE COURT: All right.

7 MR. WALENSKY: Which would be a short witness.

8 THE COURT: Okay.

9 All right, see you on Tuesday.

10 MS. CHU: I just have a question.

11 THE COURT: What?

12 MS. CHU: One of the officers that did the  
13 vouchering, he was supposed to come in yesterday and  
14 today. He is RDO and never been approved. I was  
15 wondering if defense would consider stipulating to his  
16 testimony with regard to the vouchering of the evidence.

17 MR. WALENSKY: Including the stuff I want too,  
18 right, yes, I would stipulate to the vouchering.

19 THE COURT: So get a stipulation.

20 MS. CHU: Thank you.

21 THE COURT: All right.

22 Have a good 4th of July.

23 MS. CHU: Same to you.

24 (Whereupon, the trial was adjourned to July  
25 8th, 2014.)